

## **EXHIBIT 1**

Verified Complaint, Motion for Preliminary Injunction, Amended  
Verified Complaint, and Summons

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Verified Complaint, Motion for Preliminary Injunction, Amended  
Verified Complaint, and Summons

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6  
7 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
8 **IN AND FOR THE COUNTY OF WASHOE**

9 \* \* \*

10 TRINA OLSEN,

11 Plaintiff,

Case No.:

12 vs.

Dept. No.:

13 WASHOE COUNTY SCHOOL  
DISTRICT, a political subdivision of the  
14 State of Nevada; Washoe County School  
District Superintendent TRACI DAVIS;  
15 and DOES 1 through 10 inclusive;

16 Defendants.

**ARBITRATION EXEMPTION  
REQUESTED – INJUNCTIVE AND  
DECLARATORY RELIEF SOUGHT  
AND PROBABLE JURY AWARD IN  
EXCESS OF \$50,000.**

17  
18  
19 **VERIFIED COMPLAINT**

20 COMES NOW, TRINA OLSEN, ("Olsen" or "Plaintiff"), by and through the  
21 undersigned counsel, and files the following verified complaint seeking redress  
22 for the violation by of Olsen's Due Process rights under the Fourteenth  
23 Amendment to the United States Constitution and for various pendent state law  
24 claims against WASHOE COUNTY SCHOOL DISTRICT, a political subdivision of  
25 the State of Nevada ("WCSD"); and WCSD Superintendent TRACI DAVIS  
26 ("Davis") (collectively "the Defendants"); and JOHN DOES I through X, inclusive.  
27  
28

### **Arbitration Exemption**

1  
2       1.     As set forth more fully hereinbelow, Plaintiff's claims have a probable  
3 jury award in excess of fifty thousand dollars (\$50,000.00); further,  
4 contemporaneous with this motion, the Plaintiff is filing a Motion for Preliminary  
5 Injunction and seeks declaratory relief in this Verified Complaint, and, therefore,  
6 this dispute should be excluded from mandatory court-annexed arbitration  
7 program under the provisions of NAR 3(A).  
8  
9

### **Jurisdiction and Venue**

10  
11       2.     The above-captioned Court has subject matter jurisdiction pursuant  
12 to NRS 3.221 and NRS 4.370, as the amount in controversy exceeds fifteen  
13 thousand dollars (\$15,000.00).  
14

15       3.     Venue is properly in the above-captioned Court because: (a) the  
16 Plaintiff is located in and the Defendant is a subdivision of the State of Nevada  
17 located in Washoe County; (b) it has personal jurisdiction over the Plaintiffs in this  
18 action; (c) it has personal jurisdiction over the Defendants; and (d) Plaintiff was  
19 employed by the Defendant WCSD in Washoe County.  
20  
21

### **Parties**

22  
23       4.     Ms. Olsen is currently an assistant principal at Wooster High School  
24 in Reno, Nevada, and currently resides, and at all times relevant hereto resided,  
25 in Reno, Nevada.  
26

27       5.     WCSD is the school district that serves Washoe County and is a  
28 political subdivision of the State of Nevada.

7. Ms. Davis was at all times relevant herein acting under color of state law as described below.

9. Ms. Davis, as superintendent of WCSD, was the officer with final policymaking authority over personnel matters within the WCSD during her tenure at WCSD.

10. Olsen has been an employee of WSCD since 1992. Olsen worked in various position as a certificated teacher and then Dean of Students.

12. At Hug High, Olsen was responsible for supervising Multi-Tiered Systems of Support (MTSS) and Special Education, among her general duties as Assistant Principal. Olsen also worked on the Hug Credit Attainment Program, a school-wide effort to help students complete courses and obtain credits toward graduation, as well as acting as the testing coordinator for Hug High. Olsen was also responsible, along with other staff members and administration, for school safety and student discipline at Hug High.

1           13. Ford conducted numerous evaluations, called formal observations, of  
2 Olsen at Hug High, including a 40th Day Observation of Olsen on September 27,  
3 2016, in which Ford deemed Olsen to be "effective." Ford conducted an 80th  
4 Day Observation on November 8, 2016 during a Professional Development  
5 program Olsen had organized, and Ford again rated Olsen "effective," and  
6 commended her efforts while providing recommendations for improvement. Ford  
7 conducted a 120th Day Observation of Olsen on January 31, 2017 and signed off  
8 on it on April 15, 2017. Ford completed Olsen's yearly Performance Evaluation  
9 on or about April 21, 2017, and rated Olsen as overall effective. Thus, before the  
10 events described below, Ford herself indicated that Olsen was effective at doing  
11 her job.  
12

13  
14  
15           14. On or about May 8, 2017, Hug High teacher and department leader  
16 Patrick Rossi told Olsen that another teacher had told him that Dean of Students  
17 at Hug High Jessica Wilson had given drugs back to a student. Patrick Rossi  
18 indicated to Olsen that he learned this information from Hug High teacher  
19 Sabrina Cellucci.  
20

21           15. Olsen was informed that Sabrina Cellucci brought Wilson a wallet  
22 that belonged to a student which contained marijuana. Cellucci brought Wilson  
23 the wallet because Wilson was in charge of discipline of students at Hug High.  
24 Wilson then confronted the student about the wallet and the marijuana and when  
25 the student asked for the wallet, Wilson asked her if she knew what was in the  
26 wallet. The student told Wilson that the marijuana belonged to her boyfriend and  
27  
28

1 that she didn't smoke marijuana because she gets drug tested for work and in  
2 anticipation of taking college courses. Wilson then gave the wallet with the  
3 marijuana back to the student.

4  
5 16. On May 8, 2017 Olsen went to Wilson's office to talk to Wilson about  
6 the allegation that she had given marijuana back to a student. Olsen asked Wilson  
7 if she had handed drugs back to a student. Wilson admitted that she had given  
8 the drugs back to the student because she had seen Lauren Ford do the same  
9 thing, which Olsen understood to mean that Wilson had: (1) given marijuana back  
10 to a student, and (2) that Olsen's boss, Ford, had done the same thing in the past.

12 17. Olsen knew that providing illegal drugs such as marijuana to a  
13 student was a criminal offense and a clear violation of WCSD policy, and as such  
14 she took the allegations that Wilson and Ford had done this very seriously.

16 18. On May 25, 2017, Olsen notified Roger Gonzalez, who was at that  
17 time WCSD Area Superintendent, that she wanted to report an incident involving  
18 marijuana on the Hug High campus. Despite Olsen's pleas to a meeting to  
19 discuss the matter, Gonzalez refused to meet with Olsen regarding the matter,  
20 and instead provided Olsen with the formal staff complaint form.

22  
23 19. On June 4, 2017, Olsen filed the staff complaint form against Lauren  
24 Ford by sending the form to Roger Gonzalez. Olsen's complaint stated that:

25 Patrick Rossi reported to me that Jessica Wilson (dean of students)  
26 had given a student back marijuana after it was turned in by a  
27 teacher. I went to Jessica Wilson and asked her if it was true, and  
28 she replied, 'yes, But I only did it because I saw Lauren (Ford) do it  
not too long ago.

1           20.   However, rather than investigate Wilson and Ford regarding  
2           allegations that they gave drugs to students, Gonzalez and other WCSD  
3           employees began a campaign of character assassination and retaliation against  
4           Olsen. In other words, despite having an excellent track record as a WCSD  
5           employee for a number of years, after discovering allegations that Wilson and  
6           Ford had given marijuana to a student and investigating and reporting the matter  
7           to Roger Gonzalez, Olsen has been subject to a barrage of false accusations and  
8           allegations of misconduct by WCSD officials.

9           21.   On June 28, 2018, Roger Gonzalez authored a letter to Ms. Olsen,  
10          copied to Ms. Davis and other WCSD employees, which recommended that  
11          Olsen be dismissed from WCSD. Among the allegations against Olsen detailed by  
12          Mr. Gonzalez in the letter, were that Olsen had made false accusations against  
13          Ford related to the marijuana incident described above.

14          22.   On July 6, 2018, Olsen filed a request to arbitrate the matter of the  
15          recommendation of her firing by Roger Gonzalez and Traci Davis according to  
16          the provisions of NRS 391.824.

17          23.   On July 23, 2018 Olsen was informed by WCSD employee Selene  
18          Lewis that Olsen was no longer being paid by WCSD because her status was,  
19          “recommended for dismissal.”

20          24.   On July 27, 2018, Olsen was notified by Traci Davis by mail that she  
21          was discharged effective June 5, 2018, despite the fact that Davis, by the very  
22

1 terms of the July 27, 2018 letter, was aware that Olsen had elected to arbitrate  
2 the matter and that arbitration proceedings were ongoing.

3         25. Ms. Olsen's unlawful termination was the subject of arbitration  
4 proceedings conducted before Arbitrator Andrea L. Dooley in Case No. LA-627-  
5 2018 on November 1, 2, and 28 of 2018, conducted in Reno, Nevada. Ms.  
6 Dooley issued a Decision and Award on the latter dated December 13, 2018.  
7 Among the relevant findings of fact and conclusions of law in the Decision and  
8 Award are:  
9  
10

- 11         a. WCSD violated NRS 391.822 when Traci Davis terminated Ms. Olsen  
12 on July 5, 2018 without waiting for the final report from the Arbitrator;
- 13         b. WCSD did not meet their burden of proof that the alleged actions of  
14 Ms. Olsen constituted misconduct, as alleged;
- 15         c. WCSD took disciplinary measures against Olsen that were  
16 retaliatory; and
- 17         d. WCSD's dismissal of Ms. Olsen was arbitrary and capricious.
- 18

19         26. The arbitrator's Decision and Award recommended that WCSD,  
20  
21 "...must reinstate Ms. Olsen and make her whole back to July 5, 2018, the  
22 superintendent will then follow the provisions of 391.824(6)."

23  
24         27. Although WCSD reinstated Olsen and provided back pay and  
25 benefits from July 5, 2018, it has not made Ms. Olsen whole as required by the  
26 Arbitrator's Decision and Award. To date, almost nine months after the Decisions  
27 and Award from Ms. Dooley, WCSD has still not complied with the provisions of  
28



1 NRS 391.824(6) by sending the required letter indicating that dismissal of Ms.  
2 Olsen will not be recommended to the board and that no further action will be  
3 taken against Ms. Olsen. Contemporaneous with this Complaint, Olsen is filing a  
4 Motion for Preliminary Injunction requesting that the Court prohibit WCSD from  
5 taking any adverse action against Olsen without prior consent of this Court until this  
6 case is finally resolved.  
7

8 28. Ms. Olsen's firing at the hands of Ms. Davis occurred in blatant  
9 violation of NRS 391.824(1): "If a timely request for an expedited hearing is made  
10 pursuant to NRS 391.822, the superintendent must not take any further action  
11 relating to the recommendation to dismiss the probationary employee until the  
12 written report from the arbitrator is filed with the superintendent and the  
13 probationary employee..."  
14

15 29. By the above-described malicious acts, and as a direct result,  
16 Defendant caused Olsen to lose the benefit of gainful employment at her chosen  
17 occupation for a period of six-months, and Olsen suffered damages in excess of  
18 \$15,000.  
19

20 30. The Plaintiff has suffered damages as a result of the disregard for  
21 her Constitutional rights by the Defendants, including but not limited to emotional  
22 distress, humiliation, personal indignity as well as loss of reputation or status  
23 caused by Olsen's unlawful discharge from employment and violation of her  
24 Constitutional rights described herein.  
25  
26  
27

28 ///

**CLAIMS FOR RELIEF**

**42 U.S.C. 1983 - VIOLATION OF DUE PROCESS**

**(PROTECTED PROPERTY INTEREST)**

**(Against Defendant Davis)**

31. Plaintiff repeats and realleges the allegations set forth in the foregoing Paragraphs as though fully set forth herein.

32. By their conduct, as described herein, Defendant is liable to the Plaintiff under 42 U.S.C. § 1983 for the violation, under color of state law, of the constitutional right to be free from any deprivation of property without due process of law under the Fifth and Fourteenth Amendments to the United States Constitution.

33. Davis violated numerous provisions of Nevada Revised Statutes ("NRS") 391.822 *et seq* governing the rights of employees in the State of Nevada, including the Plaintiff, which rules secure certain benefits that support a claim of entitlement to those benefits by the Plaintiff, including but not limited to the prohibition of dismissal of an employee if such dismissal violates the legal rights of the probationary employee provided by federal law or Nevada law or is arbitrary or capricious as contained in NRS 391.824(2) and (3).

34. The provisions of Nevada Revised Statutes ("NRS") 391.822 *et seq* create a property interest that is protected by the Due Process Clause of the 5th and 14th Amendments to the Constitution, the violation of which caused damages to the Plaintiff.

1           35. The acts of the Defendants described above were dishonest,  
2 intentional, wanton, malicious, and oppressive, thus entitling Plaintiff to an award  
3 of punitive damages. *Smith v. Wade*, 461 U.S. 30 (1983).

4           36. In addition to the relief requested above, the Plaintiff requests relief  
5 as described in the prayer for relief below.  
6

7                           **42 USC 1983 - MONELL CLAIM**

8                                   **(Against WCSD)**  
9

10           37. Plaintiff repeats and realleges the allegations set forth in the  
11 foregoing Paragraphs as though fully set forth herein.

12           38. At all relevant times herein, Defendant WCSD, developed,  
13 implemented, enforced, encouraged and sanctioned de facto policies, practices,  
14 and/or customs exhibiting deliberate indifference to the Plaintiff's due process  
15 rights which caused the violation of such rights by Ms. Davis as described herein.  
16

17           39. All actions described herein by Davis are a policy or custom of  
18 WCSD. (*See Jett v. Dallas Independent School District*, 491 U.S. 701, 737  
19 (1989), a policy or custom becomes official when it results from the decision or  
20 acquiescence of the municipal officer or body with final policymaking authority  
21 over the subject matter of the offending policy.) Davis, as superintendent of  
22 WCSD, was the officer with final policymaking authority over personnel matters  
23 within the WCSD, including over the decision to fire Olsen.  
24

25           40. Defendants' unlawful actions were done willfully, knowingly and with  
26 the specific intent to deprive the Plaintiff of her constitutional rights under the  
27  
28

1 Fifth and Fourteenth Amendments to the U.S. Constitution without due process of  
2 law.

3 41. The constitutional abuses and violations by WCSD through the  
4 actions of Ms. Davis were and are directly and proximately caused by policies,  
5 practices and/or customs developed, implemented, enforced, encouraged and  
6 sanctioned by WCSD, including its practice and policy of unlawfully terminating  
7 the employment of WCSD employees who report allegations of unlawful activity  
8 of other WCSD employees.  
9  
10

11 42. Upon information and belief, Defendant WCSD has developed,  
12 implemented, enforced, encouraged and sanctioned a de facto policy, practice,  
13 and/or custom of unlawfully terminating the employment of WCSD employees  
14 who report allegations of unlawful activity of other WCSD employees.  
15

16 43. Defendants' unlawful actions were done willfully, knowingly and with  
17 the specific intent to deprive Plaintiff of her constitutional rights under the Fifth  
18 and Fourteenth Amendments to the U.S. Constitution. The acts of the Defendants  
19 described above were dishonest, intentional, wanton, malicious, and oppressive,  
20 thus entitling Plaintiff to an award of punitive damages. *Smith v. Wade*, 461 U.S.  
21 30 (1983).  
22  
23

24 44. Defendants have acted with deliberate indifference to the  
25 constitutional rights of the Plaintiff. As a direct and proximate result of the acts as  
26 stated herein by each of the Defendants the Plaintiff's constitutional rights have  
27  
28

1 been violated which has caused her to suffer mental and emotional injury and  
2 pain, mental anguish, suffering, humiliation, and embarrassment.

3 **TORTIOUS DISCHARGE IN VIOLATION OF PUBLIC POLICY**

4 **(Against All Defendants)**

5  
6 45. Plaintiff repeats and realleges the allegations set forth in the  
7 foregoing Paragraphs as though fully set forth herein.

8 46. Plaintiff, acting in good faith, reported the unlawful activity of her  
9 fellow employees, not to her immediate supervisor Lauren Ford, but to WCSD  
10 Area Superintendent and public official Dr. Roger Gonzalez.

11  
12 47. WCSD superintendent Traci Davis fired the Plaintiff, despite knowing  
13 that the Plaintiff has sought arbitration under the provisions of NRS 391.822.

14  
15 48. WCSD is vicariously liable for damages resulting from their agents,  
16 servants, partners and/or employees, including but not limited to Defendant Traci  
17 Davis.

18  
19 49. The Defendant's decision to fire the Plaintiff was proximately caused  
20 by the Plaintiff's lawful actions and was in derogation of the public policy of the  
21 State of Nevada, i.e. the reporting of illegal activities to the appropriate  
22 authorities. *Allum v. Valley Bank of Nevada*, 114 Nev. 1313, 1316, 970 P.2d  
23 1062, 1064 (1998) and *Buchanan v. Watkins & Letofsky, LLP.*, 2019 WL 3848785,  
24 at \*6 (D. Nev. Aug. 15, 2019)  
25

26  
27 50. As a direct and proximate result of Defendant's tortious constructive  
28 discharge Plaintiff suffered damages in excess of \$15,000.

1 WHEREFORE, the Plaintiff requests that this Court:

2 a. Enter a declaratory judgment pursuant to NRS 30.030 that the actions  
3 complained of herein are unlawful and violate the United States Constitution and  
4 Nevada law.

5  
6 b. Order Defendant to pay the compensation denied or lost to Plaintiff to  
7 date by reason of Defendant's unlawful actions, in amounts to be proven at trial;

8 c. Order Defendant to pay compensatory damages for the Plaintiff's lost  
9 property and emotional pain and suffering, in an amount to be proven at trial;

10 d. Order Defendant to pay exemplary and punitive damages *Smith v.*  
11 *Wade*, 461 U.S. 30 (1983), and/or NRS 42.005;

12 e. Order Defendant to pay attorneys' fees and costs of the action pursuant  
13 to 42 U.S.C. 1988;

14 f. Order Defendant to pay interest at the legal rate on such damages as  
15 appropriate; and

16 g. Grant any further relief that the Court deems just and proper.

17  
18  
19  
20 **NRS 239B.030(4) AFFIRMATION**

21 Pursuant to NRS 239B.030 as well as Rule 10 of the Washoe District Court  
22 Rules, the undersigned hereby affirms that this document does not contain the  
23 social security number of any person.

24  
25 ///

26 ///

27  
28 **(signature on following page)**

**DATED** this Monday, September 30, 2019:

By:   
LUKE BUSBY, ESQ.  
NEVADA STATE BAR NO. 10319  
316 CALIFORNIA AVE.  
RENO, NV 89509  
775-453-0112  
LUKE@LUKEANDREWBUSBYLTD.COM  
*ATTORNEY FOR PLAINTIFF*

1  
2 **VERIFICATION**  
3

4 I, Trina Olsen, declare that the assertions in this Declaration are true and correct,  
5 based upon my personal knowledge, and that I am competent to testify to the facts  
6 stated below:

7 That I am the Plaintiff in the forgoing action. That I have read the foregoing  
8 VERIFIED COMPLAINT and knows the contents thereof. That Allegations of Fact in  
9 the VERIFIED COMPLAINT are true and correct to the best of my knowledge,  
10 information and belief, and as to those matters I believes them to be true.  
11

12 I declare under penalty of perjury that the foregoing is true and correct.  
13

14 Executed on: 9/30/19 in Reno, Nevada.

15   
16

17 Trina Olsen  
18  
19  
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21  
22  
23  
24  
25  
26  
27  
28



1 Code 2490  
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5 *Attorney for the Plaintiff*

6  
7 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
8  
9 **IN AND FOR THE COUNTY OF WASHOE**

10 \* \* \*

11 TRINA OLSEN,

12 Plaintiff,

Case No.:

13 vs.

14 WASHOE COUNTY SCHOOL  
DISTRICT, a political subdivision of the  
State of Nevada; Washoe County School  
District Superintendent TRACI DAVIS;  
15 and DOES 1 through 10 inclusive;

Dept. No:

16 Defendants.  
17 \_\_\_\_\_/

18 **MOTION FOR PRELIMINARY INJUNCTION**

19 COMES NOW, TRINA OLSEN, ("Olsen" or "Plaintiff"), by and through the  
20 undersigned counsel, and files the following Motion for Preliminary Injunction  
21 against WASHOE COUNTY SCHOOL DISTRICT, a political subdivision of the  
22 State of Nevada ("WCSD"), seeking that the Court issue an Order precluding  
23 WCSD from taking any further adverse employment action against Olsen without  
24 prior consent of this Court until this case is resolved.  
25  
26  
27  
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1 This Motion is made and based upon all the pleadings and records on file  
2 for this proceeding together with every exhibit that is mentioned herein or  
3 attached hereto (each of which is incorporated by this reference as though it  
4 were set forth here in haec verba), if any there be, as well as the points and  
5 authorities set forth directly hereinafter.  
6

## 7 **MEMORANDUM OF POINTS AND AUTHORITIES**

### 8 **Issue**

9  
10 This Motion is filed contemporaneously with the Verified Complaint in this  
11 matter. The underlying facts describing the dispute in this case are attested to  
12 by Olsen and described at length in the Verified Complaint, which facts  
13 incorporated herein and included herein by reference.  
14

15 The most salient facts related to this Motion and the underlying request for  
16 relief are as follows.  
17

18 Olsen has been an employee of WSCD since 1992. Olsen worked in  
19 various position as a certificated teacher and then Dean of Students. For the  
20 2016-2017 school year, Olsen was promoted to the position of Assistant  
21 Principal at Hug High School, where she reported to and were supervised by  
22 Hug High Principal Lauren Ford ("Ford").  
23

24 In May of 2017, Olsen was informed of allegations that illegal drugs may  
25 have been provided to students by Jessica Wilson, Dean of Students at Hug  
26 High, and by Ford. Olsen then reported these allegations to WCSD Area  
27 Superintendent Roger Gonzalez.  
28

1           However, rather than investigate Wilson and Ford regarding allegations  
2 that they gave drugs to students, Gonzalez and other WCSD employees began a  
3 campaign of character assassination and retaliation against Olsen. In other  
4 words, despite having an excellent track record as a WCSD employee for a  
5 number of years, after discovering allegations that Wilson and Ford had given  
6 marijuana to a student and investigating and reporting the matter to Roger  
7 Gonzalez, Olsen has been subject to a barrage of false accusations and  
8 allegations of misconduct by WCSD officials.  
9  
10

11           On June 28, 2018, Roger Gonzalez authored a letter to Ms. Olsen, copied  
12 to Ms. Davis and other WCSD employees, which recommended that Olsen be  
13 dismissed from WCSD. Among the allegations against Olsen detailed by Mr.  
14 Gonzalez in the letter, were that Olsen had made false accusations against Ford  
15 related to the marijuana incident described above. Mr. Gonzalez's letter is  
16 attached hereto as Exhibit 1.  
17  
18

19           On July 6, 2018, Olsen filed a Request to Arbitrate the matter of the  
20 recommendation of her firing by Roger Gonzalez according to the provisions of  
21 NRS 391.824. See Exhibit 2.  
22

23           On July 27, 2018, Olsen was notified by Traci Davis by mail that she was  
24 discharged effective July 5, 2018, despite the fact that Davis, by the very terms  
25 of the July 27, 2018 letter, was aware that Olsen had elected to arbitrate the  
26 matter and that arbitration proceedings were ongoing. See Exhibit 3. NRS  
27 391.824(1) plainly provides that:  
28

1 If a timely request for an expedited hearing is made pursuant to NRS  
2 391.822, the superintendent must not take any further action relating  
3 to the recommendation to dismiss the probationary employee until  
4 the written report from the arbitrator is filed with the superintendent  
5 and the probationary employee pursuant to subsection 2.

6 Ms. Olsen's unlawful termination was the subject of arbitration  
7 proceedings conducted before Arbitrator Andrea L. Dooley in Case No. LA-627-  
8 2018 on November 1, 2, and 28 of 2018, conducted in Reno, Nevada. Ms.  
9 Dooley issued a Decision and Award on the latter dated December 13, 2018  
10 attached hereto as Exhibit 4. Among the relevant findings of fact and  
11 conclusions of law in the Decision and Award are:

12 a. WCSD violated NRS 391.822 when Traci Davis terminated Ms. Olsen on  
13 July 5, 2018 without waiting for the final report from the Arbitrator; *Id.* at  
14 36.

15 b. WCSD did not meet their burden of proof that the alleged actions of Ms.  
16 Olsen constituted misconduct, as alleged; *Id.* at 34.

17 c. WCSD took disciplinary measures against Ms. Olsen were retaliatory;  
18 *Id.* at 32, and

19 d. WCSD's dismissal of Ms. Olsen was arbitrary and capricious. *Id.* at 38.

20 The arbitrator's Decision and Award recommended that WCSD, "...must  
21 reinstate Ms. Olsen and make her whole back to July 5, 2018, the  
22 superintendent will then follow the provisions of 391.824(6)." *Id.*

23 To date, some nine months after the Decisions and Award from Ms.  
24 Dooley, WCSD has not complied with the provisions of NRS 391.824(6) by  
25  
26  
27  
28

1 sending the required certified letter indicating that dismissal of Ms. Olsen will not  
2 be recommended to the board and that no further action will be taken against  
3 Ms. Olsen, nor has WCSD made Ms. Olsen whole as required by the Arbitrator's  
4 Decision and Award.

5  
6 After the Decision and Award, Ms. Olsen rehired and was given as  
7 position as assistant principal at Wooster High School in Reno, Nevada.  
8 However, despite the Decision and Award, Olsen is still at risk for further  
9 retaliatory action by WCSD officials because the directive from the Arbitrator in  
10 the Decision and Award that Olsen receive notice that dismissal of Ms. Olsen will  
11 not be recommended to the board and that no further action will be taken  
12 against Ms. Olsen, as required by NRS 391.824(6), has not been complied with  
13 by WCSD. Further, based on WCSD's past conduct as described by the  
14 Arbitrator in the decision and award, Olsen reasonably fears that further  
15 retaliatory actions may be taken against Olsen as a result of her instituting this  
16 action.

17  
18 Olsen is only seeking injunctive relief herein against WCSD because  
19 Olsen is informed that around Jul 1, 2019, Traci Davis as terminated from her  
20 employment at WCSD.

#### 21 **Rule**

22  
23 NRS 33.010 states that an injunction may be granted by the Court where it  
24 appears by the complaint that: (1) the plaintiff is entitled to the relief demanded, i.e.  
25 likelihood of success on the merits; (2) irreparable injury if the injunction in not

1 granted; and (3) the defendant is doing some act in violation of the plaintiff's rights  
2 respecting the subject of the action.

### 3 **Analysis**

#### 4 **a. Likelihood of Success on the Merits**

5 Olsen has plead three causes of action: a 14<sup>th</sup> Amendment Due Process  
6 Claim against Defendant Traci Davis, a 42 U.S.C. *Monell* Claim against WCSD, and  
7 a Tortious Discharge claim against Davis and WCSD. See Verified Complaint.  
8

9 As described above, the facts underlying the dispute between Ms. Olsen and  
10 WCSD have already been subject to formal proceedings and a Decision and Award  
11 by an Arbitrator, in which the Arbitrator concluded that WCSD took retaliatory  
12 action against Olsen and that WCSD's firing of Olsen was "arbitrary and  
13 capricious." See Exhibit 4. Thus, Olsen has already in essence prevailed in  
14 showing that WCSD terminated Olsen in violation of her Due Process rights  
15 conferred by NRS 391.822 et seq.  
16  
17

18 While 42 U.S.C. 1983 creates no substantive rights, it creates a vehicle for  
19 enforcing existing federal rights. Due process rights only exist when an employee  
20 has a property interest in his or her employment, or a reasonable expectation of  
21 continued employment. Property interests related to employment are created and  
22 defined by existing rules, such as state law, that secure certain benefits and that  
23 support claims of entitlement to those benefits. *Board of Regents of State Colleges*  
24 *v. Roth*, 408 U.S. 564 (1972). Due Process rights are, "...conferred, not by  
25 legislative grace, but by constitutional guarantee." *Arnett v. Kennedy*, 416 U.S. 134,  
26 167 (1974). While the legislature may elect not to confer a property interest, it may  
27  
28

1 not deprive a granted property interest without appropriate procedural safeguards.

2 *Id.*

3       The facts described herein and in the Complaint show that Davis violated  
4 numerous provisions of Nevada Revised Statutes governing the rights of  
5 employees in the State of Nevada that secure certain benefits that support a  
6 claim of entitlement to those benefits by the Plaintiff, including but not limited to  
7 the prohibition of dismissal of an employee such as Olsen if such dismissal  
8 violates the legal rights of the probationary employee provided by federal law or  
9 Nevada law or is arbitrary or capricious as contained in NRS 391.824(2) and (3).  
10 “[T]he existence of a right violated is a prerequisite to the granting of an injunction.”  
11 *State Farm Mut. Auto. Ins. Co. v. Jafbro Inc.*, 109 Nev. 926, 928, 860 P.2d 176,  
12 178, 1993 WL 385119 (1993) quoting 43 C.J.S. § 18 Injunctions (1978).  
13

14  
15  
16       If the Court determines a likelihood of success on Olsen’s Due Process claim,  
17 her *Monell* claim against WCSD should succeed as well because all actions of Davis  
18 are a policy or custom of WCSD. (See *Jett v. Dallas Independent School District*,  
19 491 U.S. 701, 737 (1989), a policy or custom becomes official when it results from  
20 the decision or acquiescence of the municipal officer or body with final  
21 policymaking authority over the subject matter of the offending policy.) Local  
22 governments are liable for underlying 42 U.S.C. 1893 claims if the deprivation is the  
23 result of the agency’s custom, policy, or practice. *Monell v. New York City*  
24 *Department of Social Services*, 436 U.S. 658 (1978). Davis, as superintendent of  
25  
26  
27  
28

1 WCSD, was the officer with final policymaking authority over personnel matters  
2 within the WCSD, including over the decision to fire Olsen.

3 Olsen's Tortious Discharge claim should succeed as well, because the facts  
4 indicate Olsen was fired for reporting the alleged illegal conduct of her co-workers.  
5 (See Exhibit 1, where one of the allegations against Olsen that led to her dismissal  
6 was that she was guilty of: "Gross Misconduct; making false accusations toward  
7 your immediate supervisor." As determined in the Decision and Award in Exhibit 4,  
8 the Defendant's decision to fire the Olsen was caused by Olsen's lawful and  
9 appropriate action of reporting the alleged illegal conduct of co-workers and, as  
10 such, her firing was in derogation of the public policy of the State of Nevada, i.e. the  
11 right to report of illegal activities of others to the appropriate authorities without fear  
12 of retaliation. *Allum v. Valley Bank of Nevada*, 114 Nev. 1313, 1316, 970 P.2d 1062,  
13 1064 (1998) and *Buchanan v. Watkins & Letofsky, LLP.*, 2019 WL 3848785, at \*6 (D.  
14 Nev. Aug. 15, 2019).

15  
16  
17  
18 **b. Irreparable Harm**

19 For a preliminary injunction to issue, the moving party must show that the  
20 nonmoving party's conduct, should it continue, would cause irreparable harm for  
21 which there is no adequate remedy at law. *Dep't. of Conservation & Natural Res. v.*  
22 *Foley*, 121 Nev. 77, 80, 109 P.3d 760, 762 (2005).

23  
24 Olson will suffer irreparable harm is she is again dismissed by WCSD as  
25 described in her Declaration, attached hereto as Exhibit 5. Ms. Olsen relies on the  
26 income from her position at WCSD to pay for her home, her car, and for the general  
27 welfare of her family. For example, the first time that Olsen was terminated by  
28



1 Davis, Olsen lost riders on her health insurance policy for which she was  
2 grandfathered in. These health insurance riders now cost twice as much because  
3 the riders were not paid during the time Olsen was terminated.

4 Further, because Olsen has already exercised her rights to arbitrate the  
5 dispute with WCSD as described in the Decision and Order, if WCSD takes further  
6 adverse action she will have no further administrative recourse under NRS 391.822  
7 *et seq* to have the matter heard again.

8  
9 Further, Olsen has suffered irreparable harm to her professional reputation  
10 and standing by being accused of misconduct, by being vindicated by the  
11 Arbitrator's Decision and Award, and then having WCSD ignore the provisions of  
12 the award that would compel it to admit that it was WCSD and not Olsen who  
13 violated the law when WCSD fired Olsen for reporting the alleged misconduct of  
14 other WCSD employees.  
15  
16

17 Also, Olsen would have been eligible to apply to become a principal three  
18 years after being appointed assistant principal at any school in WCSD. Because  
19 Olsen missed a year and a half of work as an assistant principal, she has suffered a  
20 delay in her eligibility to apply to become a principal. Further adverse action by  
21 WCSD would, de facto, exacerbate the harms described above.  
22

23 **c. Acts in Violation of Olsen's Rights**

24 Olson has a Due Process right to be free from arbitrary and capricious  
25 dismissal from her position at WCSD as provided in NRS 391.824(2) and (3).  
26 Subsequent to the arbitration process described in the statutory scheme in NRS  
27  
28

1 391.822 et seq, an employee is putatively to be “let off the hook.” i.e. they are  
2 supposed to be affirmatively informed by their employer that, “that dismissal of  
3 the employee will not be recommended to the board and that no further action  
4 will be taken against the employee.” See NRS 391.824(6)(b). For unknown  
5 reasons, this has no occurred and Olsen is still, “on the hook” for at least some  
6 of the allegations leveled against her in the Notice of Recommended Dismissal in  
7 Exhibit 1. As described above, despite the clear decision of the Arbitrator in the  
8 Decision and Award, WCSD refuses to abide by the Decision and Award and has  
9 not complied with the provisions of NRS 391.824(6)(b), but rather, keeps Olsen in a  
10 continuous state of limbo where she may face further adverse action as a result of  
11 the circumstances that have already been addressed by the Arbitrator in the  
12 Decision and Award.

13  
14  
15  
16 No bond should be required in this matter for the issuance of the requested  
17 injunction because issuance of the injunction will not result in any costs to WCSD.

### 18 **Conclusion**

19  
20 Based on WCSD’s demonstrated lack of compliance with its own rules and  
21 regulations, and its past retaliatory actions against Olsen, the Court should issue a  
22 preliminary injunction to maintain the *status quo* and prevent WCSD from taking any  
23 further adverse employment action against Olsen without prior approval of this  
24 Court.

25  
26 WHEREFORE, Olsen requests that the Court provide the following relief:


27 (1) Schedule a hearing if the Court deems necessary; and  
28

1 (2) Issue a preliminary injunction against WCSD prohibiting WCSD from  
2 taking any adverse action against Olsen without prior consent of this Court until this  
3 case is finally resolved.

4 **NRS 239B.030(4) AFFIRMATION**

5 Pursuant to NRS 239B.030 as well as Rule 10 of the Washoe District Court  
6 Rules, the undersigned hereby affirms that this document does not contain the  
7 social security number of any person.  
8

9  
10 **DATED** this Monday, September 30, 2019:

11  
12 By:   
13 LUKE BUSBY, ESQ.  
14 NEVADA STATE BAR NO. 10319  
15 316 CALIFORNIA AVE.  
16 RENO, NV 89509  
17 775-453-0112  
18 LUKE@LUKEANDREWBUSBYLTD.COM  
19 ATTORNEY FOR PLAINTIFF  
20  
21  
22  
23  
24  
25  
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### Exhibit List

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1. June 28, 2018 Notice of Recommended Dismissal
2. July 6, 2018 Request to Arbitrate
3. July 27, 2018 Termination Letter
4. December 13, 2018 Decision and Award
5. Declaration of Trina Olsen

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that on Monday, September 30, 2019, I caused service to be completed by:

\_\_\_\_\_ personally delivering;

  X   delivery via Reno/Carson Messenger Service;

\_\_\_\_\_ sending via Federal Express (or other overnight delivery service);

\_\_\_\_\_ depositing for mailing in the U.S. mail, with sufficient postage affixed thereto;

or,

\_\_\_\_\_ delivery via electronic means (fax, eflex, NEF, etc.)

a true and correct copy of the foregoing pleading addressed to:

To: Washoe County School District  
Office of General Counsel  
Christopher B. Reich, Esq.  
P.O. Box 30425  
Reno, NV 89520-3425  
[creich@washoeschools.net](mailto:creich@washoeschools.net)

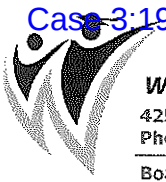
Traci Davis  
c/o William E. Peterson  
SNELL AND WILMER  
50 W. Liberty St. Suite 50  
Reno, Nevada 89501  
[wpeterson@swlaw.com](mailto:wpeterson@swlaw.com)

By:   *Josh A. Burley*

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Clerk of the Court  
Transaction # 7511797 : csulezic

**Exhibit 1**

**Exhibit 1**



**Washoe County School District**

425 East Ninth Street \* P.O. Box 30425 \* Reno, NV 89520-3425  
Phone (775) 348-0200 \* (775) 348-0304 \* [www.washoeschools.net](http://www.washoeschools.net)

Board of Trustees: Katy Simon Holland, President \* Malena Raymond, Vice President \* John Mayer, Clerk \*  
Debra Feemster \* Veronica Frenkel \* Scott Kelley \* Angela Taylor \* Traci Davis, Superintendent

June 28, 2018

**USMAIL/CERTIFIED #7015166000006352091**

Trina Olsen  
1400 Belford Rd.  
Reno, NV 89509

**RE: Notice of Recommended Dismissal**

Dear Ms. Olsen:

Be advised that pursuant to NRS 391.317 and the delegation of authority to the Superintendent to make all employee separation decisions from the Board of Trustees on February 14, 2006, I intend to recommend to the Superintendent that you be dismissed. The basis for this action is found in NRS 391.750, specifically:

(d) Insubordination; (c) Unprofessional Conduct; (k) failure to comply with such reasonable requirements as a board may prescribe; (p) Dishonesty; (u) Gross Misconduct; making false accusations toward your immediate supervisor; and Administrative Regulation 4425.

On July 26, 2017, an Investigatory/Due Process (IDP) meeting was held with you to hear your responses to allegations. With you and me at the meeting was Richard Swanberg, Area Superintendent and Alyson Kendrick, WSPA President. After investigating this matter, including hearing your responses, my findings are as follows:

It is alleged that you filed written false claims against your immediate supervisor, Principal Lauren Ford. You were asked specifically if you filed the staff complaint because you believed Principal Ford had returned drugs to a student. You indicated that you were reporting what was reported to you by the Dean of Students. On 6/29/17 when I met with you to discuss the staff complaint you indicated that the Dean said "The only reason I did it was because I saw Lauren do the same thing a while ago". I asked to clarify this meaning and you stated, "returning drugs to a student." In reality, you knew that the dean had returned the wallet to the student but most importantly had not issued a consequence/suspension. The Dean was concerned that this student, three weeks away from graduating, would not graduate. The Dean was referring to issuing a consequence to the student. What the Dean had observed was Principal Ford not issuing a consequence to another student who possessed marijuana as that student had served as an informant and had provided the school with the name of the student who was dealing the drugs on the campus.

In another complaint, you claimed that your immediate supervisor, Principal Lauren Ford, does not have the ability to evaluate an employee following WCSD administrative procedures. You indicated that you did not have a pre-observation meeting, a scheduled observation and no evaluation meeting or

discussions leading up to your final evaluation narrative. Additionally, you claim you did not have an opportunity for rebuttal of your evaluation. However, there are dates, observation notes and sign offs for the 40<sup>th</sup>, 80<sup>th</sup> and 120<sup>th</sup> observation cycles. You had the opportunity to discuss your evaluation with your supervisor on April 17, 2017, and following a three-hour meeting on April 21, 2017, both you and your supervisor signed off on your evaluation. You did not exercise your right to provide a response to the evaluation until after filing a staff complaint in June, 2017.

You were directed to not discuss the pending investigative due process meeting with any staff members at Hug HS when you were temporarily reassigned to Traner MS. On July 26, 2017 at the IDP meeting, I asked if you had any conversations with Hug High School staff members about the pending investigation. You indicated that you had spoken with Ryley Coker, but not about the investigation. On July 17, 2017 in a written statement from Ryley Coker, teacher at Hug HS, he indicated that you shared with him that the reason you were no longer at Hug HS was due to a testing violation mistake. Additionally, you told him that you were given more duties as an assistant principal than any other assistant principal in the District. You also told him that should the District demote you, that you had an attorney on retainer. During the IDP, you indicated that you did not recall sharing anything with Ryley Coker, when in fact you had discussed the investigation with him.

In addition, shortly after the IDP meeting on July 26, 2017 you contacted Ryley Coker, again, and made very threatening and unprofessional comments to him about his loyalty and that you were always defending him with Principal Ford.

I find your responses to be less than credible and dishonest and your continued lack of leadership to use best practices with your subordinates and to follow well accepted management techniques is unacceptable for a person in your position.

I find that your conduct and actions above violates:

NRS 391.750, specifically: (d) Insubordination; (c) Unprofessional Conduct; (k) failure to comply with such reasonable requirements as a board may prescribe; (p) Dishonesty; (u) Gross Misconduct; making false accusations towards your immediate supervisor; and Administrative Regulation 4425.

Additionally, on July 19, 2017 you were issued a Letter of Admonition for the following specific causes:

It is alleged that you sent an email to all Hug staff on May, 11, 2017 that included secure testing materials, and student identifying information. During the IDP, you stated that "Yes it is true. It slipped my mind...I forgot I had sensitive items in the document." After further investigation, it was confirmed that you sent the email to all Hug staff with secure testing information included.

It is alleged that you were dishonest with your supervisor about meeting with the department leaders to vet the testing schedule. After further investigation, nine (9) department leaders stated that there was not a department lead meeting to discuss the testing schedule. Three (3) department leaders and one (1) other staff member indicated attending a meeting where a schedule was shown to them and no input was taken from them. Further investigation concludes that you were dishonest during the IDP meeting and with your supervisor about holding a department leader meeting to vet the testing schedule.



It is alleged that on Thursday, May 11, 2017 at 2:00 pm, you sent an email to only staff involved in proctoring the EOC exams explaining that you did not have to show the Test administrator test security NDE spring 2017 video to them in your meeting that they could watch it on their own. It is alleged that you did not verify with staff if they watched the video prior to proctoring the EOC exams on Monday, May 15, 2017. After further investigation, it is evident that you did not show the Test administrator test security NDE spring 2017 video and you did not verify that staff watched the video by having them complete the required form verifying that they had watched the video.

It is alleged that on the evening of Tuesday, May 16, 2017 you sent a text to Rhonda Clark and Brad Bodine stating, "I have been paper-thin for a while, at least I'll get some rest tonight. I really feel bad they won't let me finish it." After further investigation it was determined that you did send a text to Rhonda and Brad with the above statement. It is also evident by your statements, that you were relieved to be removed from testing. This further demonstrates your willful neglect or failure to observe and carry out the requirements of this title.

On July 19, 2017, you were issued a second Letter of Admonition for the following specific causes:

It is alleged that on Friday, April 7, 2017 you sent an email to Wendy Labon, Patrick Rossi and Patricia Newbrough giving a directive to issue a final and change a grade for the 14-15 school year violating administrative procedure 5504 and 5502. After further investigation as to you not having knowledge of the policy, statements reveal that you were informed that any grade change occurring outside the three week grading window must have principal and District approval. You even stated in the IDP meeting you understood the protocol.

It is alleged that you gave Sharon Black a notification of credit form to use to change a grade for the 15-16 school year, violating administrative procedure 5504 and 5502. After further investigation, regarding your argument that you were directed to see teachers in order to change grades, statements revealed that the directive given to everyone was that no student would receive credit. Principal Ford provided the forms to Brad Bodine with the directive that no student would receive credit. Further investigation as to your statement that you never signed approval for grade changes and only the principal could do so, Ms. Ford found eight such approvals signed by you.

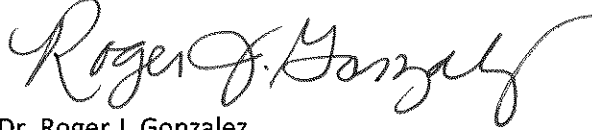
It is alleged that you failed to get your supervisor's approval prior to putting in Lorrie Foley's evaluation that you recommended her to be placed on a Focused Assistance Plan (FAP). After reviewing the narrative, you sent Ms. Ford an email on April 8<sup>th</sup> regarding the FAP. In person and subsequent to your email, Ms. Ford stated that Lorrie Foley could not be placed on an FAP. In an email received on April 20<sup>th</sup> and in the meeting held on April 27<sup>th</sup> with Lorrie Foley, Elaine Lancaster, WEA Representative and your supervisor you stated that Laura Pincollini gave you guidance and you followed it, to include the FAP. Further investigation revealed that when your supervisor stated, "you do not have enough evidence to do an FAP." you assumed that this response was not a no to the FAP but questioning your evidence. Further investigation also indicates that you signed and finalized the evaluation for Lorrie Foley on April 12, 2017 without your supervisor's approval and prior to your email correspondence with Laura Pincollini.

It is alleged that you failed to supervise staff under your required supervision as demonstrated by: the list of students that Wendy Labon sent to Rise. After further investigation of your correspondence with Rise, your supervisor was not copied on any of the emails you or Wendy sent to Rise. Your email to Victor on April 7, 2017 indicates that the students listed were, "struggling and either failing all of their classes right now or have vanished." You did not indicate to the Rise principal that students were signing up by choice. It was further alleged your lack of attendance at Special Education teacher meetings and at Senior Special Education Action Committee (SSAC) meetings. You allegedly canceled meetings with the SPED department leaders from February 14<sup>th</sup> to the end of the school year because of the 3 weeks of testing.

I find that the violations above and your continued demonstration of dishonesty and your actions that fall within the definition of Gross Misconduct (pursuant to NRS 391.750) warrant the recommendation that you be dismissed from service with the District.

My recommendation to the Superintendent is that you be dismissed from service with the District effective **July 5, 2018**. If you wish to appeal this action, you will need to follow NRS 391.822 (attached document).

Sincerely,

A handwritten signature in black ink, appearing to read "Roger J. Gonzalez", written in a cursive style.

Dr. Roger J. Gonzalez  
Area Superintendent

cc: Emily Ellison, Chief Human Resources Officer  
Virginia R. Doran, Director of Labor Relations  
Chris Reich, Deputy General Counsel  
Michael Langton, Esquire  
Selene Lewis, Human Resources Technician

**NRS 391.822 Written notice of intent to dismiss probationary employee required; contents of notice.**

1. If the superintendent intends to recommend the dismissal of a probationary employee to the board before the end of a contract year, the superintendent must provide written notice to the employee, by registered or certified mail, not less than 15 business days before making the recommendation to the board.

2. The written notice required pursuant to subsection 1 must:

(a) Include a statement of the reasons for the recommendation to dismiss the probationary employee;

(b) Inform the probationary employee that he or she may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization, by filing a written request with the superintendent not later than 10 business days after receiving notice from the superintendent pursuant to subsection 1; and

(c) Include notice of the laws which govern the employment of a probationary employee of a school district which are contained in this chapter.

3. If a written request for an expedited hearing is not filed by the probationary employee pursuant to subsection 2, the superintendent may recommend the dismissal of the probationary employee to the board.

(Added to NRS by 2017.1190)

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Clerk of the Court  
Transaction # 7511797 : csulezic

**Exhibit 2**

**Exhibit 2**

*Law Offices of*  
**MICHAEL E. LANGTON**  
Attorney at Law  
801 Riverside Drive  
Reno, Nevada 89503

---

Michael E. Langton  
E-Mail: [mlangton@sbcglobal.net](mailto:mlangton@sbcglobal.net)

(775) 329-7557  
Fax (775) 329-7447

July 6, 2018

Traci Davis, Superintendent  
Washoe County School District  
425 E. 9<sup>th</sup> Street  
P.O. Box 30425  
Reno, Nevada 89520-3425

**Re: Trina Olsen**

Dear Superintendent Davis:

Please be advised I represent Trina Olsen, and in said capacity hereby file a request for an expedited hearing pursuant to the expedited labor arbitration procedures established by the American Arbitration Association.

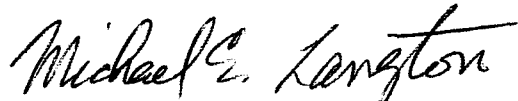
This request is filed because former Area Superintendent Gonzales stated in his letter dated June 28, 2018: "If you wish to appeal this action, you will need to follow NRS 391.822 (attached document)." This request for hearing is made with full reservation of rights of Mrs. Olsen with regard to the collective bargaining agreement covering her position as well as the right to challenge the fact that she is a probationary employee subject to the requirements of NRS 391.822. This request is further made with full reservation of rights to challenge the action of notice of recommended dismissal by Mr. Gonzales, including but not limited to, failure of the representatives of the School District to comply with the requirements of NRS 391 and the requirements of the collective bargaining agreement.

July 6, 2018  
Page 2  
Traci Davis

---

Please have the appropriate representative of the School District contact me to make arrangements for the hearing.

Very Truly Yours,

A handwritten signature in black ink that reads "Michael E. Langton". The signature is written in a cursive style with a large, stylized "M" and "L".

Michael E. Langton, Esq.

MEL: mek  
cc: Trina Olsen

Chris Reich, Deputy General Counsel  
WCSD

Virginia R. Doran, Director  
Labor Relations  
WCSD

Emily Ellison, Chief Human Resources Officer  
WCSD

Selene Lewis, Human Resources Technician  
WCSD

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Clerk of the Court  
Transaction # 7511797 : csulezic

## **Exhibit 3**

## **Exhibit 3**



**Washoe County School District**

425 East Ninth Street \* P.O. Box 30425 \* Reno, NV 89520-3425  
Phone (775) 348-0200 \* (775) 348-0304 \* [www.washoeschools.net](http://www.washoeschools.net)

Board of Trustees: Katy Simon Holland, President \* Malena Raymond, Vice President \* John Mayer, Clerk \*  
Debra Feemster \* Veronica Frenkel \* Scott Kelley \* Angela Taylor \* Traci Davis, Superintendent

July 27, 2018

Trina Olsen  
1400 Belford Road  
Reno, Nevada 89509

Dear Ms. Olsen:

As you are aware, on June 28, 2018, you were sent a letter from Dr. Roger Gonzalez recommending to me, as Superintendent, that you be dismissed from service with the Washoe County School District. In that letter, it was explained to you that should you desire to appeal this dismissal, you were required to submit your request in writing to me. Your attorney, Michael Langton, sent a letter appealing this recommendation of dismissal. It is my understanding that Mr. Langton and the Department of Labor Relations are in the process of establishing an arbitration hearing on this issue.

For clarification, it is my decision to uphold the recommendation of your dismissal from the Washoe County School District, effective July 5, 2018.

Sincerely,

Traci Davis  
Superintendent WCSD

Cc: Michael Langton, Esquire  
Emily Ellison, Chief Human Resources Officer  
Virginia R. Doran, Director of Labor Relations







**Washoe County School District**

425 East Ninth Street \* P.O. Box 30425 \* Reno, NV 89520-3425  
Phone (775) 348-0200 \* (775) 348-0304 \* [www.washoeschools.net](http://www.washoeschools.net)

Board of Trustees: Katy Simon Holland, President \* Malena Raymond, Vice President \* John Mayer, Clerk \*  
Debra Feemster \* Veronica Frenkel \* Scott Kelley \* Angela Taylor \* Traci Davis, Superintendent

July 26, 2018

Trina Olsen  
1400 Belford Road  
Reno, Nevada 89509

Dear Ms. Olsen:

As you are aware, on June 28, 2018, you were sent a letter from Dr. Roger Gonzalez recommending to me, as Superintendent, that you be dismissed from service with the Washoe County School District. In that letter, it was explained to you that should you desire to appeal this dismissal, you were required to submit your request in writing to me. Your attorney, Michael Langton, sent a letter appealing this recommendation of dismissal. It is my understanding that Mr. Langton and the Department of Labor Relations are in the process of establishing an arbitration hearing on this issue.

For clarification, it is my decision to uphold the recommendation of your dismissal from the Washoe County School District, effective July 6, 2018.

Sincerely,

Traci Davis  
Superintendent WCSD

Cc: Michael Langton, Esquire  
Emily Ellison, Chief Human Resources Officer  
Virginia R. Doran, Director of Labor Relations

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Jacqueline Bryant  
Clerk of the Court  
Transaction # 7511797 : csulezic

## **Exhibit 4**

## **Exhibit 4**

Andrea L. Dooley, Arbitrator  
5111 Telegraph Avenue #273  
Oakland, CA 94609  
(510) 719-3089  
andrealdooley@gmail.com

IN THE ARBITRATION PROCEEDINGS

BETWEEN THE PARTIES

TRINA OLSEN,

Employee,

and

WASHOE COUNTY SCHOOL DISTRICT,

Employer.

(Letters of Admonition and Termination)

Case No.: LA-627-2018

DECISION AND AWARD

INTRODUCTION

This dispute involves the grievance of probationary Assistant Principal Trina Olsen (“Employee” or “Olsen”) pursuant to Nevada Revised Statutes 391.822 and 391.824. Pursuant to an agreement between the parties, the parties selected the undersigned Arbitrator to serve as the neutral decision-maker in this case. The matter came for hearing in Reno, Nevada, on November 1, 2 and 28, 2018. The parties submitted this matter to the Arbitrator after presentation of evidence and closing written briefs.

APPEARANCES

For the Employee: Michael Langton, Esq.  
801 Riverside Drive  
Reno, NV, 89503

For the Employer: Virginia R. Doran  
Director of Labor Relations

Washoe County School District  
425 E. Ninth Street  
PO Box 30425  
Reno, NV 89520

### ISSUE

The parties have agreed to the following statement of issues:

1. Did the District have just cause to issue two Letters of Admonition to the Grievant? If not, what is the remedy?
2. Did the District have just cause to terminate the Grievant? If not, what is the remedy?

In addition, the Employee raises the following issues:

1. What effect does NRS 391.660 have in this case? Specifically, how does NRS 391.660 affect NRS 391.800, 391.820, 391.822 and 391.824?
2. Did the School District, by and through Superintendent Davis violate NRS 391.824 when she terminated Grievant before receiving a written report from the Arbitrator? If so, what shall the remedy be?
3. Is Trina Olsen entitled to final and binding arbitration and not advisory arbitration?
4. Did the District comply with the requirements of the collective bargaining agreement when it alleged that there was just cause to terminate Grievant? If not, what shall the remedy be?

### RELEVANT LAW

**NRS 391.820 - Probationary employment: Term; notice of reemployment; school district required to offer probationary administrator contract as teacher under certain circumstances; request for expedited hearing if dismissed before completion of current school year.**

Except as otherwise provided in NRS 391.825:

1. A probationary employee is employed on a contract basis for three 1-year periods and has no right to employment after any of the three probationary contract years.

2. The board shall notify each probationary employee in writing during the first, second and third school years of the employee's probationary period whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a post probationary employee. Such notice must be provided:

- (a) On or before May 1; or
- (b) On or before May 15 of an odd-numbered year so long as the board notifies the employee of the extension by April 1.

3. Failure of the board to notify the probationary employee in writing on or before May 1 or May 15, as applicable, in the first or second year of the probationary period does not entitle the employee to post probationary status.

...

8. A new employee who is employed as an administrator to provide primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, or a **post probationary teacher who is employed as an administrator to provide those administrative services shall be deemed to be a probationary employee for the purposes of this section and must serve a 3-year probationary period as an administrator in accordance with the provisions of this section.**<sup>1</sup> If:

- (a) A post probationary teacher who is an administrator is not reemployed as an administrator after any year of his or her probationary period; and
- (b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,
- (c) the board of trustees of the school district shall, on or before May 1 or May 15, as applicable, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10 or May 25, as applicable. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

**NRS 391.822 Written notice of intent to dismiss probationary employee required; contents of notice.**

1. If the superintendent intends to recommend the dismissal of a probationary employee to the board before the end of a contract year, the superintendent must provide written notice to the employee, by registered or certified mail, not less than 15 business days before making the recommendation to the board.

2. The written notice required pursuant to subsection 1 must:

- (a) Include a statement of the reasons for the recommendation to dismiss the probationary employee;
- (b) Inform the probationary employee that he or she may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the

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<sup>1</sup> Emphasis added.

1 American Arbitration Association or its successor organization, by filing a written  
2 request with the superintendent not later than 10 business days after receiving  
3 notice from the superintendent pursuant to subsection 1; and

4 (c) Include notice of the laws which govern the employment of a probationary  
5 employee of a school district which are contained in this chapter.

6 3. If a written request for an expedited hearing is not filed by the probationary  
7 employee pursuant to subsection 2, the superintendent may recommend the  
8 dismissal of the probationary employee to the board.

9 **NRS 391.824 Request and procedures for expedited hearing concerning**  
10 **dismissal of probationary employee; actions of superintendent upon receipt of**  
11 **report from arbitrator.**

12 1. If a timely request for an expedited hearing is made pursuant to [NRS](#)  
13 [391.822](#), the superintendent must not take any further action relating to the  
14 recommendation to dismiss the probationary employee until the written report from  
15 the arbitrator is filed with the superintendent and the probationary employee  
16 pursuant to subsection 2.

17 2. An arbitrator shall hold an expedited hearing and file a written report with  
18 the superintendent and the probationary employee who requested the hearing  
19 pursuant to [NRS 391.822](#) in the manner prescribed by the Expedited Labor  
20 Arbitration Procedures established by the American Arbitration Association or its  
21 successor organization. The only issues the arbitrator may consider are whether the  
22 dismissal of the probationary employee would:

23 (a) Violate the legal rights of the probationary employee provided by federal  
24 law or the laws of this State; or

25 (b) Be arbitrary or capricious.

26 3. At the expedited hearing, the superintendent must provide evidence of at  
least one reason to recommend the dismissal of the probationary employee, which  
must include, without limitation, at least one reason provided in the written notice  
required pursuant to paragraph (a) of subsection 2 of [NRS 391.822](#). To rebut such  
evidence, the probationary employee must prove that each reason:

(a) Violates the legal rights of the probationary employee provided by federal  
law or the laws of this State; or

(b) Is arbitrary or capricious.

4. The written report filed by the arbitrator pursuant to subsection 2 is not  
binding upon the superintendent or the board.

5. The provisions of [NRS 38.206](#) to [38.248](#), inclusive, do not apply to an  
expedited hearing, the written report of an arbitrator or any other portion of an  
arbitration conducted pursuant to this section.

6. Not later than 5 business days after the superintendent receives the written  
report from the arbitrator pursuant to subsection 2, the superintendent shall:

(a) If the superintendent intends to recommend the dismissal of the  
probationary employee, file with the board the report and a written recommendation  
to dismiss, and provide to the employee, by registered or certified mail, written  
notice of the filing of the recommendation and the date, time and location of the

1 next regularly scheduled meeting of the board at which the recommendation to  
2 dismiss the employee will be considered; or

3 (b) If the superintendent does not intend to recommend the dismissal of the  
4 probationary employee, provide to the employee, by registered or certified mail,  
5 written notice that dismissal of the employee will not be recommended to the board  
6 and that no further action will be taken against the employee.

## 7 **RELEVANT CONTRACT PROVISIONS**

### 8 **ARTICLE 1 DEFINITIONS**

9 1.2 The term “unit member” or “member” as used in this Agreement, shall refer to Principals,  
10 Assistant Principals, Specialist, Directors and Assistant Directors, Coordinators 1 and 2, Lead  
11 Psychologist, Program Administrator, Site Administrators, Turning Point Administrator and  
12 other people who hold administrative credentials and serve in that capacity in WCSD. The  
13 exception will be those Administrators who are excluded by NRS 288.

### 14 **ARTICLE 18 DISMISSAL AND DISCIPLINARY PROCEDURES INCLUDING 15 GRIEVANCE AND BINDING ARBITRATION**

16 18.1 Disciplinary action, including but not limited to, demotion, suspension, dismissal, and  
17 non-renewal actions taken against post-probationary unit members (in accordance with NRS  
18 391), shall be progressive in nature and related to the nature of the infraction. Unit members shall  
19 be given reasonable opportunity for improvement.

20 The school district shall not be discharged, demote, suspend or take any other disciplinary action  
21 against a post probationary bargaining unit member of this unit without just cause.

## 22 **STATEMENT OF THE FACTS**

23 Trina Olsen has been an employee of the Washoe County School District since 1992.<sup>2</sup>

24 After many years as a certificated teacher and then Dean of Students, Olsen became a  
25 probationary Assistant Principal at Hug High School for the 2016-2017 school year, where she  
26 reported to Principal Lauren Ford during the relevant time period. Olsen’s area of oversight

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<sup>2</sup> The hearings were conducted without a court reporter. Facts which have not been attributed to documents admitted into evidence have been summarized or quoted from the Arbitrator’s notes, written at the time of the hearing.

1 including Multi-Tiered Systems of Support (MTSS) and Special Education. As a part of her  
2 responsibilities, Olsen also worked on the Hug Credit Attainment Program, a school-wide effort  
3 to help students complete courses and obtain credits toward graduation, as well as acting as the  
4 testing coordinator for Hug.<sup>3</sup>

5  
6 On December 7, 2016, Olsen witnessed a student draw out two knives and begin  
7 attacking other students. Olsen used her walkie-talkie radio to call the police, including the  
8 School Resource Officer, and to call a Code Red alarm. She worked to evacuate students from  
9 the area as the School Resource Officer responded to the incident. During this incident, Olsen  
10 witnessed the officer shoot the student with his gun, killing the student.

#### 11 Hug Credit Attainment Plan

12 Hug uses several on-line programs, including the A+ on-line program, to provide  
13 curriculum to students. The A+ Program includes the ABC Curriculum, which is a supplemental  
14 curriculum that can be used within a course if a student needs remedial assistance but does not  
15 qualify for course credit. Brad Bodine, another Assistant Principal, is the Curriculum vice  
16 principal who oversees credit questions.

17  
18 A+ courses can qualify for credit towards graduation. However, during the winter break  
19 in 2016, Ford learned from the District that there were problems in issuing credits for A+  
20 courses, because Hug was incorrectly providing students with credit for the ABC Curriculum.  
21 When Ford raised the issue to the assistant principals, including Olsen and Bodine, Olsen said  
22 she would take care of it.<sup>4</sup>  
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26 <sup>3</sup> District Exhibit 13. Hereafter, District Exhibit will be abbreviated DX.

<sup>4</sup> DX 19, email from Bodine to Ford.



1 Patty Newbrough, an A+ teacher, proposed that they develop a program for students who  
2 were failing courses and who were missing blocks of time from school. Per Ford, Newbrough  
3 thought the school was under-utilizing the A+ credit recovery program. After meeting with Ford  
4 and the Assistant Principals, Olsen took the lead on the pilot program called Hugs Credit  
5 Attainment Program. With the permission of the District, the pilot would apply only to the prior  
6 semester. The intent of the program was to give students assignments in A+ to recover grades  
7 from classes they had failed the prior semester. This program was separate from the other on-line  
8 learning programs OLA and AE-OLA.<sup>5</sup>

10 In the spring of 2017, Bodine reported to Ford that there was a problem with the pilot  
11 program. Newbrough worked in the same classroom as teacher Wendy Labon. Bodine had  
12 explained the difference between the pilot program, OLA and EA-OLA to both teachers, but  
13 both teachers kept using the ABC curriculum to give credit to students. When Ford brought the  
14 problem to Olsen's attention, Olsen told Ford that she didn't know what OLA or EA-OLA is.  
15 Ford believed that either Olsen had directed Wendy to give the credit inappropriately or that  
16 Wendy was lying to Olson about the matter.

18 Sometime in the 2016-2017 school year, Sharon Black, a Hug English teacher, reported  
19 to Ford that Olsen had directed Black to "give out credits I shouldn't hand out."<sup>6</sup> Specifically,  
20 Black alleged that Olsen had told her to give credit for "ABC curriculum" that a student had  
21 completed two years earlier. Black notified Ford that she did not sign the forms assigning the  
22 credit.  
23

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25  
26 <sup>5</sup> Testimony of L. Ford.

<sup>6</sup> Testimony of L. Ford.

1 Bodine testified that he spoke with teachers about how far back they could go to recover  
2 credit for students, and that he spoke to one teacher who had talked to Olsen and wanted to make  
3 sure he was doing it right. Bodine reported, “(the teacher) didn’t say Trina told him to change it.”

4 Performance Evaluations

5 Ford conducted a 40<sup>th</sup> Day Observation of Olsen on September 27, 2016 and deemed  
6 Olsen to be “Level 3 effective.”<sup>7</sup> Ford conducted an 80<sup>th</sup> Day Observation on November 8, 2016  
7 during a Professional Development program Olsen had organized.<sup>8</sup> Ford rated Olsen “effective,”  
8 and commended her efforts while providing recommendations for improvement.<sup>9</sup> Ford  
9 conducted a 120<sup>th</sup> Day Observation of Olsen on January 31, 2017 and signed off on it on April  
10 15, 2017.<sup>10</sup> Ford completed Olsen’s Performance Evaluation on or about April 21, 2017, and  
11 rated Olsen as Effective.<sup>11</sup> As a result of the shooting, District Administrator Mike Paul extended  
12 the deadline for completing evaluations. Ford cut and pasted Olsen’s comments into Olsen’s  
13 evaluation document, which Ford later removed at the direction of Mike Paul.  
14

15 According to Ford, all new administrators have training on the evaluation process, and  
16 that all teachers who have been identified as “minimally effective” need to be reported to the  
17 Area Superintendent. Those teachers are entitled to notice of their rating in February so that they  
18 can have two more evaluations before the April final evaluation. Teachers who are rated  
19 “minimally effective” are placed on a Focused Assistance Program (FAP).  
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25 <sup>7</sup> DX 9.

<sup>8</sup> DX 10.

<sup>9</sup> Id.

<sup>10</sup> DX 11.

<sup>11</sup> DX 12.

1 Olsen was responsible for evaluating teachers, including Lorrie Foley. It was Olsen's  
2 opinion that Foley be placed on an FAP. Olsen notified Ford on March 5, March 7, April 8, April  
3 17 and April 20 that she wanted to discuss Foley's performance.<sup>12</sup> Olsen testified that she was  
4 not able to consult with Ford during that time because of Ford's absences from the high school.

5 Olsen discussed Foley's performance with Laura Pincollini, a teacher-mentor, who told  
6 Olsen that "the decision to do a FAP rests only with the principal."<sup>13</sup> Olsen was not able to  
7 observe Foley because she had changed classrooms several times. Ultimately, Foley's evaluation  
8 was rated "effective," and in Ford's opinion, Olsen had waited too long to request a FAP and  
9 therefore needed to wait until the next year. There is no evidence that Olsen knew the deadline  
10 for notifying Roger Gonzalez about "minimally effective" teachers or that Ford ever discussed a  
11 plan with Olsen for managing Foley's evaluation process. When Olsen submitted an FAP for  
12 Foley, Mike Paul told her she could not do so.<sup>14</sup> Olsen again asked Ford for direction about  
13 Foley's evaluation on May 1, 2017, but there's no evidence she received a response.<sup>15</sup> Ford's  
14 recollection is that she repeatedly told Olsen not to put Foley on an FAP.

#### 17 RISE Field Trip

18 In March and April 2017, Olsen arranged for students from two different programs to  
19 attend a field trip at RISE, the District's adult education program. Olsen notified Ford on March  
20 6, 2017 that the SPED Action Team and the Senior MTSS team were collaborating to take  
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25 <sup>12</sup> EX 62, 63, 66-68

26 <sup>13</sup> DX 68.

<sup>14</sup> EX 70.

<sup>15</sup> DX 71.

1 students on a field trip to introduce them to RISE. The trip was approved by Tristan McElhaney,  
2 another Assistant Principal, as well as Victor at RISE.

3 Ford felt that she did not have clarity about why the students were taking the field trip or  
4 how students had been chosen to attend. At a Saturday retreat for the administration team, Ford  
5 asked Olsen how kids got on the list.

6 According to Ford, Olsen responded, “The Committee worked hard to do a good job.”

7 In her testimony, Ford reported that she responded, “You don’t fucking get it. How did  
8 the names get on this list?” and that she “lost (her) cool.”

9  
10 Marijuana Incident

11 On or about May 8 or 9, 2017, teacher Patrick Rossi told Olsen that another teacher had  
12 told him that Dean of Students Jessica Wilson had given drugs back to a student.<sup>16</sup> Patrick Rossi  
13 learned this information from Sabrina Cellucci.

14 Jessica Wilson wrote a statement about the incident and testified about it at the hearing.  
15 According to Wilson, Sabrina Cellucci brought her a wallet that belonged to a student which had  
16 marijuana in it. When the student asked for the wallet, Wilson asked her if she knew what was in  
17 the wallet. The student told Wilson that it belonged to her boyfriend and that she didn’t smoke  
18 because she gets drug tested for work and in anticipation of taking college courses. Wilson  
19 “tossed the marijuana and told her that I never wanted to see it on campus again.”<sup>17</sup> Wilson  
20 elected not to discipline the student at that time.  
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26 <sup>16</sup> EX 57.

<sup>17</sup> EX 9.

1           Upon learning the story third hand from Rossi, Olsen conferred with her mentor Dave  
2 Murdock, who said she should reach out to Wilson about the matter.

3           On May 8, Olsen went to Wilson's office to talk to Wilson about the allegation that she  
4 had given marijuana back to a student. Olsen asked Wilson, "if I had handed drugs back to a  
5 student on Friday."<sup>18</sup> According to Olsen, Wilson admitted that she had given the wallet back to  
6 the student because she had seen Lauren Ford do the same thing." Wilson reported "I explained  
7 the situation" in her written statement but did not describe what she meant by "the situation" in  
8 her written statement.  
9

10           While Wilson testified that she meant that she had seen Laura give a student no discipline  
11 in a similar situation, her comment at the time she spoke to Olsen was vague as to what "same  
12 thing" meant. Ford later documented that Wilson told her "that she could see that Trina mis-  
13 interpreted the comment" and that Trina did not ask any clarifying questions.<sup>19</sup>  
14

15           Wilson said that Olsen told her, "I needed to protect myself and suspend the student."  
16 After that time, Wilson contacted the student and suspended the student for three days. The  
17 student did not return to school ever again.

18           Olsen also conferred with Brad Bodine, who related in a June 2, 2017, statement to Ford  
19 that, "On Monday May 8 Trina Olsen came into my office to speak with me regarding" Jessica  
20 Wilson and said, "(Olsen) asked Ms. Wilson if she did return the wallet with drugs in it. Ms.  
21 Olsen said that Jessica said, 'yes and Lauren has done the same thing.'"<sup>20</sup> In his statement,  
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26           <sup>18</sup> EX 9.

<sup>19</sup> EX 14.

<sup>20</sup> EX 61.

1 Bodine says that he told Olsen to tell Ford about the incident. Olsen recalled that Bodine told her  
2 to talk to Wilson about the incident.

3 On May 10, Olsen again reached out to Wilson, still concerned about the incident. Olsen  
4 “strongly suggested (Wilson) tell Ms. Ford about the situation.”<sup>21</sup> On May 11, Wilson reported  
5 the incident to Ms. Ford.<sup>22</sup>  
6

7 Ford believed that Olsen should have notified her of the allegations that Wilson gave  
8 drugs to a student rather than talking to Wilson about it. On a prior occasion, Ford had, for the  
9 safety of a student and to aid an ongoing investigation, returned a quantity of drugs to a student  
10 rather than take disciplinary action. That decision was made in concert with the campus police  
11 officer.

12 No other employees, including AP Brad Bodine, Dean of Students Jessica Wilson and  
13 teachers Patrick Rossi and Sabrina Cellucci, were disciplined for failing to report the incident to  
14 Ford.  
15

#### 16 Testing Issues

17 Olsen was the designated test coordinator for Hug High School. District trainings for test  
18 coordinators were conducted in the fall 2016 and spring 2017. Training coordinators at each  
19 school train the staff who will be handling the test materials and administering the tests.  
20

21 On May 4, 2017, Olsen told Ford, “I’m dropping the ball with my workload . . . With  
22 everything I have over the next 7 days, can you help me prioritize my duties? . . . I don’t know  
23  
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26 <sup>21</sup> Testimony of J. Wilson.

<sup>22</sup> Id.

1 what else to do, I need your help.”<sup>23</sup> Ford responded that “testing is our priority” but did not  
2 address Olsen’s overall organizational difficulties at that time.<sup>24</sup>

3 On or about May 15, 2017, Sandy Aird, District Director of Assessment, notified Ford  
4 that she had received a tip about a test discrepancy or irregularity at Hug. Specifically, Olsen had  
5 sent out confidential information to the entire Hug staff by forwarding a spreadsheet that  
6 contained user IDs and passwords in “hidden” columns. Olsen had created the spreadsheet with  
7 the assistance of staff in the District office by downloading the information from the District  
8 platform. She “hid” the confidential columns before distributing the material. Ford had not been  
9 able to open the document when she approved its distribution, but Olsen was responsible for the  
10 distribution.<sup>25</sup> Aird directed Ford to remove Olsen as the test administrator. Aird admitted that  
11 the ability to keep confidential information in the spreadsheet was “a learning on our part.”  
12

13 Ford and two other Assistant Principals took over test coordination. In the course of  
14 taking over, Ford determined that Olsen did not have verification that every proctor had watched  
15 a video that was required by the State of Nevada Department of Education. As a result of the  
16 Testing Irregularity, the District notified Ford that Olsen could not be involved with testing, near  
17 test materials, have computer access or schedules. None of the tests were invalidated.  
18

19 On May 17, 2017, Olsen was reassigned to Traner Middle School.<sup>26</sup>

20 On May 23, 2017, Olsen notified Roger Gonzalez that she wanted to file a complaint  
21 against Ford for changing her performance evaluation.<sup>27</sup> On May 24, 2017, Olsen received a  
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25 <sup>23</sup> EX 7.

<sup>24</sup> Id.

<sup>25</sup> EX 74.

<sup>26</sup> EX 83.

<sup>27</sup> EX 11.

1 notice of IDP for alleged misconduct in the period of April 7-May 15.<sup>28</sup> On May 25, Olsen  
2 notified Gonzalez that she wanted to report an incident involving marijuana on campus.<sup>29</sup>  
3 Gonzalez provided Olsen with the formal staff complaint form.<sup>30</sup>

4 On May 31, 2017, Olsen attended an Investigatory Due Process meeting with Ford and  
5 Labor Relations Manager Virginia Doran to discuss allegations of misconduct that had occurred  
6 during the 2016-17 school year.

7 On June 4, 2017, Olsen filed a Staff Complaint Form against Lauren Ford, reporting that,  
8 “Patrick Rossi reported to me that Jessica Wilson (dean of students) had given a student back  
9 marijuana after it was turned in by a teacher. I went to Jessica Wilson and asked her if it was  
10 true, and she replied, ‘yes, But I only did it because I saw Lauren (Ford) do it not too long  
11 ago.’”<sup>31</sup>

12 On or about June 19, 2017, but dated June 8, 2017, Olsen filed another Staff Complaint  
13 Form about Ford on the basis that Ford had not correctly conducted Olsen’s evaluation and had  
14 changed the narrative portion of the evaluation in violation of District policy.<sup>32</sup>

15 Ford conducted an investigation into the allegations discussed in the IPD meeting and on  
16 July 19, 2017, issued a Letter of Admonition (“the First LOA”) about the following alleged  
17 misconduct<sup>33</sup>:

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28 EX 12.

29 EX 13.

30 EX 15.

31 EX 16.

32 EX 23.

33 DX 4.



- 1 1. That, on April 7, 2017, Olsen directed teachers Wendy Labon, Patrick Rossi and Patricia  
2 Newbrough to change a student's grade for the 2014-15 school year in violation of  
3 Administrative Procedure 5504 and 5502.
- 4 2. That Olsen directed Sharon Black to change a student's grade for the 2015-16 school  
5 year, and signed approval for grade changes without the authority to do so.
- 6 3. That Olsen recommended teacher Lorrie Foley be placed on a FAP in Foley's  
7 performance evaluation without permission to do so and did so at the direction of teacher-  
8 mentor Laura Pincollini, who did not have the authority to direct Olsen to do so.
- 9 4. That, on May 8, 2017, Olsen failed to report to Ford an incident where Dean of Students  
10 Jessica Wilson was rumored to have returned drugs to a student, and instead discussed  
11 the matter directly with Wilson.
- 12 5. That Olsen failed to supervise staff when she failed to provide an explanation for how  
13 students were chosen to attend a field trip to Rise.

14 In the First LOA, Ford established performance expectations for Olson to meet with the  
15 new Hug High School principal.

16 On July 19, 2017, Olsen received a second Letter of Admonition ("the Second LOA")  
17 about the following alleged misconduct<sup>34</sup>:

- 18 1. That on May 11, 2017, Olsen sent secure testing materials to all Hug Staff in a  
19 spreadsheet which included confidential information which was "hidden" but  
20 accessible to any recipient.

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<sup>34</sup> DX 5.

2. That on May 10, 2017, Olsen failed to provide Ford with information that had been requested on May 4, 2017.
3. That Olsen failed to direct test proctors to watch a required video prior to testing and failed to verify that the proctors had watched the video, as required, prior to testing.
4. That on May 16, 2017, Olsen discussed her removal as the test coordinator with two other employees.
5. That Olsen's statements to two other employees about "being relieved" about being removed as test coordinator demonstrated "willful neglect or failure to observe and carry out the requirements of this title."
6. That Olsen returned to her office on May 17, 2017, to retrieve a radio after being directed not to enter her office because test materials were in that office.

In the Second LOA, Ford set performance expectations for Olsen, including that she not be involved in testing for three years, to meet with the new principal of Hug High School. By the date of the letter, Ford had become an Area Superintendent and was no longer the principal at Hug High School.

On July 19, 2017, Dr. Roger Gonzalez, Area Superintendent, directed Olsen to participate in an Investigatory/Due Process meeting on July 26, 2017 to discuss the following allegations:

1. That Olsen brought false claims and allegations against Lauren Ford when she reported a case involving marijuana on Hug's campus, when she said that "Jessica Wilson had returned marijuana to a student because she had seen Lauren Ford do the same thing."
2. That Olsen brought false claims and allegations against Ford regarding the supervision timeline.

3. That Olsen discussed personnel matters with Hug staff members against the direction of management.<sup>35</sup>

After meeting with Gonzalez as directed on July 26, 2017, Gonzalez issued a Notice of Recommended Dismissal on June 28, 2018.<sup>36</sup> The recommended dismissal was based on the first and second Letters of Admonition, the allegations in the July 19 IDP Letter, and the allegation that after the IDP Meeting, Olsen contacted Ryley Coker and “made very threatening and unprofessional comments to him about his loyalty.”<sup>37</sup>

Olsen was notified that she was discharged effective July 5, 2018.<sup>38</sup>

## POSITIONS OF THE PARTIES

### DISTRICT’S POSITION

Trina Olsen was a probationary employee who is only entitled to the protections afforded by NRS 391.824 and is not entitled to final and binding arbitration under the Negotiated Agreement between the District and Washoe School Principals’ Association.<sup>39</sup> Even if the terms of the agreement do apply, the Nevada Supreme Court recently held in *Washoe County School District v. White*, 133 Nev. Advance Opinion 43, (2017) that “Article 18.1 serves to preclude the District from choosing disciplinary actions that are clearly disproportionate to the proscribed conduct, while permitting the District to impose more severe penalties for repeated infractions.”

Based on this standard, the District contends that the manifest weight of the evidence demonstrates that the two Letters of Admonition and the Discharge were warranted under the

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<sup>35</sup> DX 7.

<sup>36</sup> DX 8.

<sup>37</sup> Id.

<sup>38</sup> EX 28.

<sup>39</sup> DX 1.

1 circumstances. Olsen engaged in dishonesty by making false allegations against her Principal  
2 and discussed her personnel actions with other District employees in contravention of a direct  
3 order.

4 For these reasons, the District asks the Arbitrator to deny the grievance and to  
5 recommend upholding the Recommended Discipline and Discharge.  
6

7 EMPLOYEE'S POSITION

8 Trina Olsen was a 21-year veteran of the District, and therefore not a “probationary  
9 employee” subject to NRS 391.822 or 391.824. She should be afforded the protections of  
10 progressive discipline and binding arbitration contained in the Agreement between the District  
11 and the Washoe School Principals’ Association. Under that standard, the District did not  
12 demonstrate just cause for the Letters of Admonition and the Discharge effective July 5, 2018.<sup>40</sup>  
13

14 According to Olsen, if she is subject to the provisions of NRS 391.822 and 391.824, then  
15 the discharge is not final until the arbitrator’s recommendations (if they uphold discharge) are  
16 adopted by the District and at a minimum, Olsen is entitled to back pay and benefits if and until  
17 the district superintendent recommends discharge to the School Board.

18 The District also withheld notes taken by Gonzalez and Ford during the course of their  
19 investigations. Olsen is entitled to review these notes, and they should be presumed to be adverse  
20 to the District’s position because Olsen was denied her due process right to review the  
21 documents.  
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<sup>40</sup> EX 28.

1 The District has engaged in disparate treatment for disciplining Olsen for her failure to  
2 report the marijuana incident but not disciplining other employees for engaging in the same  
3 alleged misconduct.

4 Regardless of what standard the Arbitrator applies, the District has failed to provide  
5 evidence that they had just cause to terminate Olsen. For these reasons, Olson asks the  
6 Arbitrator assert contractual jurisdiction over this case, sustain the grievance and reinstate Ms.  
7 Olson with a make whole remedy.  
8

### 9 DISCUSSION

10 Regardless of whether this case is properly subject to NRS 391.822 and 391.824 or is  
11 subject to the Negotiated Agreement's binding arbitration procedure, the parties agree that the  
12 Employer bears the burden to demonstrate that just cause exists for the discipline imposed on the  
13 grievant, Trina Olsen. The District has presented evidence about three disciplinary matters, and  
14 each will be considered in turn.  
15

16 The just cause standard typically requires progressive discipline when appropriate, and it  
17 is expected that discipline will be corrective in nature as well, if the circumstances warrant it. An  
18 employer need not impose progressive discipline where the conduct is more serious. However,  
19 when a serious charge is made against an employee, it should be narrowly construed, because of  
20 the long-lasting effects of such an accusation on an employee's career.<sup>41</sup>  
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<sup>41</sup> Bornstein, Labor and Employment Arbitration (2011), §20.01  
DECISION AND AWARD - 19

**I. DOES THE EMPLOYER HAVE JUST CAUSE FOR DISCIPLINE?**

**First Letter of Admonition**

The First Letter of Admonition (LOA 1) contained five allegations about which the parties provided evidence.

Allegation 1: That, on April 7, 2017, Olsen directed teachers Wendy Labon, Patrick Rossi and Patricia Newbrough to change a student's grade for the 2014-15 school year in violation of Administrative Procedure 5504 and 5502.

In the May 24, 2017 Notice of IDP, Ford alleged that Olsen had directed other teachers via email to change a student's grade.<sup>42</sup> The First LOA references an email, but no email was provided at the hearing to the Arbitrator, and there is no directive email in the record. The First LOA instead states: "After further investigation as to you not having knowledge of the policy, statements reveal that you were informed that any grade change occurring outside the three week grading window must have principal and District approval."<sup>43</sup>

This statement is undisputed by Olsen. Olson, Ford and Bodine each repeatedly testified that "the teacher owns the gradebook" and would be responsible for changes which would be approved by the AP for Curriculum (Bodine) and Ford. While Olsen had some confusion about whether she was permitted to sign off on a grade change, she was informally counseled on that issue, and never changed any grades or directed others to change grades without the express agreement of Ford. There was no evidence that Olsen ever directed via email or in person that the three teachers change a grade outside the three-week grading period.

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<sup>42</sup> EX 12.

<sup>43</sup> DX 4.

1 Olsen was responsible for the Hug Credit Attainment Plan, a pilot program expressly  
2 created at the direction of Principal Ford for the purpose of finding permissible ways for students  
3 to complete classes and repair grades in order to graduate. That Ms. Olsen would be disciplined  
4 beyond the counseling she received is contrary to the goals of the program, which was to  
5 encourage teachers to support students to graduate.  
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7 The only relevant evidence provided was an email dated April 4, 2017, from Olsen to  
8 Labon, Rossi and Newbrough which stated, "The teacher owns the grade book and the principal  
9 can approve the grade change at any time. If Sharon can get Wendy the final to administer the  
10 test or if she wants to do it on her own, (student) will get the credit as soon as Sharon submits the  
11 grade change form. It's definitely a procedure that Lauren fully supports."<sup>44</sup> This email  
12 corroborates Olsen's defense that she was only informing teachers of the process of recovering  
13 credit, not directing grade changes.  
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15 The Employer failed to provide evidence to support just cause for imposing discipline for  
16 this allegation.

17 Allegation 2: That Olsen directed Sharon Black to change a student's grade for the 2015-16  
18 school year, and signed approval for grade changes without the authority to do so.

19 In the May 24, 2017 Notice of IDP, Ford alleged that Olsen gave Sharon Black a  
20 notification of credit form to change a grade for the 15-16 school year, violating administrative  
21 procedure 5504 and 5502.<sup>45</sup> In the First LOA, Ford expands on a larger issue related to grade  
22 change forms which Olsen took responsibility for handling, but which Ford did not believe were  
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26 <sup>44</sup> EX 85.

<sup>45</sup> EX 12.

1 handled correctly.<sup>46</sup> The grade change forms issue arose in March 2017 after Olsen had started  
2 implementation of the Hug Credit Attainment Program. Despite accusations that Olsen had  
3 mishandled grade change forms, there was no evidence at hearing that any grade change forms  
4 were improperly handled, or that any discrepancies occurred at Olsen's direction.

5 Specifically, Ford did not provide the email from Sharon Black that she claimed  
6 demonstrated that Olsen had given a directive. If the email is the same one referenced above (EX  
7 85), it is clear that Olsen was explaining the process, not directing any policy violation. It was  
8 also not clear, prior to receiving notification from the District, that there was a problem with the  
9 way that A+ course credit was being handled. Once Hug administration was notified of the  
10 problem, they seemed to work diligently to fix it while still focusing on supporting students to  
11 graduation.

12 This allegation occurred early in the school year, and there was ample time to counsel  
13 Olsen about problems relating to the Hug Credit Attainment Plan, yet Ford did not issue an IDP  
14 until late May and did not raise the issue in Olsen's performance evaluation. The confusion and  
15 delay around this issue, in addition to the lack of clear evidence of misconduct, suggest that the  
16 Employer was adding the issue to the LOA in order to bolster the discipline, and not because it  
17 was supported by just cause.

18 The Employer failed to provide evidence to support just cause for imposing discipline for  
19 this allegation.

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<sup>46</sup> DX 4.



1 Allegation 3: That Olsen recommended teacher Lorrie Foley be placed on a FAP in Foley's  
2 performance evaluation without permission to do so and did so at the direction of teacher-mentor  
3 Laura Pincollini, who did not have the authority to direct Olsen to do so.

4 It is undisputed that Olsen wanted to place Lorrie Foley on a Focused Assistance Plan  
5 and made repeated efforts to get Ford's support and direction to do so. On at least five occasions  
6 in March and April 2017, Olsen emailed Ford to initiate a discussion about putting Foley on an  
7 FAP. It is Ford's recollection that she told Olsen that it was too late to do so, because the  
8 deadline for notifying Roger Gonzalez that a FAP was needed had passed. There is no evidence  
9 when that deadline was, or whether Olsen was ever notified about that deadline. Despite Ford's  
10 testimony, it is clear that Olsen did not feel like she had received clear or timely advice from her  
11 principal and sought advice elsewhere.

12 Ford contends that Olsen inappropriately took direction from Pincollini, who is a teacher-  
13 mentor and not an administrator. It is the case that Olsen discussed Lorrie Foley with Laura  
14 Pincollini, but the evidence indicates that Olsen was doing just that: discussing the matter. Olsen  
15 consulted a veteran teacher-mentor with questions about how to handle what she perceived as a  
16 low-performing teacher situation because she was not getting a response from Ford. Pincollini  
17 did not direct Olsen's actions; she gave her advice as a long-time, experienced teacher familiar  
18 with the performance evaluation process.<sup>47</sup>

19 Olsen proceeded to put Foley on a FAP without Ford's permission, which she knew or  
20 should have known was not correct, since she would have needed Ford's permission to do so.  
21 However, Ford's lack of responsiveness to Olsen's requests for help, coupled with Ford's own  
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<sup>47</sup> EX 86.

1 failure to follow performance evaluation timelines (see EX 5) strongly suggest that the District  
2 does not typically consider this to be a discipline-worthy offense. It constitutes a form of  
3 disparate treatment to discipline Olsen for this issue when Ford shares responsibility for  
4 evaluation timeline issues. To the extent that any just cause might exist for discipline in this case,  
5 it warrants, at most, a verbal warning.  
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7 Allegation 4: That, on May 8, 2017, Olsen failed to report to Ford an incident where Dean of  
8 Students Jessica Wilson was rumored to have returned drugs to a student, and instead discussed  
9 the matter directly with Wilson.

10 It is undisputed that Olsen did not report the “marijuana incident” involving Wilson to  
11 Principal Ford, and instead directed Wilson to report it Ford herself. However, Cellucci, Rossi  
12 and Bodine also failed to report the incident to Ford or the District, and Wilson only reported the  
13 matter to Ford after being directed to do so by Olsen. This is a glaring example of disparate  
14 treatment, in that one employee is being disciplined for an action that four other people engaged  
15 in and were not disciplined for.

16 In reality, the decision to handle the matter as they did was one in which both Wilson and  
17 Olsen likely had the discretion to handle in a manner best suited to the student’s needs. The real  
18 tragedy of this incident is that a young woman who was very close to graduation never returned  
19 to school because of Olsen’s reaction. Wilson made the well-considered decision to let the  
20 “marijuana flakes” slide because she knew the student had a precarious living situation and a  
21 strong need to stay in school. Olsen disrupted that by substituting her judgment and failing to ask  
22 follow-up questions about Wilson’s decision. At the same time, drugs in school is a serious issue  
23 about which reasonable minds can disagree, and while Olsen may bear responsibility for the  
24 student outcome related to the marijuana incident by telling Wilson she had to suspend the  
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1 student, failing to report it to Ford is not a reasonable cause for discipline, given that no one else  
2 reported it either.

3 Allegation 5: That Olsen failed to supervise staff when she failed to provide an explanation for  
4 how students were chosen to attend a field trip to Rise.

5 The evidence in the record is clear on this issue: Olsen and two other Assistant Principals  
6 organized a field trip for students from at least two separate programs to visit RISE, the adult  
7 learning academy in the District, in collaboration with one another and the RISE leadership.  
8 Olsen notified Ford of this field trip and got appropriate sign-off from RISE and from Tristan  
9 McElhaney for transportation.

10 For some reason, Ford questioned which students had been selected to attend the field  
11 trip. It's unclear why she wanted to know, and why Olsen's explanation that students from both  
12 programs were included was unsatisfactory. By Ford's own admission, she "lost her cool" and  
13 swore at Olsen about this matter. Based on the evidence, it's very hard to understand how this  
14 supports just cause for discipline against Olsen. The trip was authorized and appropriate and  
15 focused on students who would benefit from the visit. To discipline Olsen for not answering her  
16 question in the manner Ford wanted is unnecessarily punitive.

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18 Finally, in the First LOA, Ford established performance expectations for Olson to meet  
19 with the new Hug High School principal. Olsen was on leave and not given an opportunity to  
20 meet these performance expectations. **In summary, based on the evidence, the Arbitrator**  
21 **cannot conclude that the District had just cause to impose the First LOA on Olsen, and**  
22 **does not believe that the District did so with the intent of correcting Olsen's performance.**  
23 **The Arbitrator recommends that the First LOA be removed from Olsen's record.**  
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## Second Letter of Admonition

The Second Letter of Admonition (LOA 2) contained six allegations about which the parties provided evidence.<sup>48</sup>

Allegation 1: That on May 11, 2017, Olsen sent secure testing materials to all Hug Staff in a spreadsheet which included confidential information which was “hidden” but accessible to any recipient.

This allegation is undisputed. Olsen admits that, as the testing coordinator, she created a spreadsheet from District sources which contained both confidential and non-confidential information, that she “hid” the columns which had confidential information but did not secure them in any other way (such as in a new book or using password protection), and then distributed the spreadsheet to every faculty and staff email address at Hug High School. This breach of confidentiality was discovered by a District employee, who reported it to the Director of Assessment, who in turn reported it to the Nevada State Department of Education.

This breach of confidential information was a serious testing violation which resulted in the District and Hug administration taking active measures to remedy the breach and monitor the tests to ensure that no further violations occurred. Olsen was removed from her responsibilities as the testing coordinator and reassigned to Traner Middle School.

Olsen raised several defenses. First, the data was provided by the District, which had not taken measures to secure the data beyond telling test coordinators that the data was confidential. While this is true, and Aird admitted that this was “a learning” for the District, Olsen knew

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<sup>48</sup> DX 5.

1 enough about Excel documents to know that “hidden” data isn’t really hidden, and she bears  
2 some responsibility for the breach.

3 Second, Olsen argues that she sent a copy of the message to Ford prior to distributing it to  
4 the Hug staff and faculty. Ford could not open the document but “trusted Olsen” and didn’t  
5 double-check the document at any time. Again, Ford should bear some responsibility for her  
6 oversight, but it was also reasonable of her to expect that Olsen, as the designated test  
7 coordinator, had done the job correctly, and the message was time-sensitive.  
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9 Finally, Olsen claims that she was overwhelmed and stressed out at the time this occurred  
10 and that she didn’t realize, in her hasty and upset state of mind, that the information was not truly  
11 secure from every recipient. This may be an accurate description of Olsen’s mindset, but it isn’t a  
12 defense to the allegation. Under the circumstances, the Employer has just cause to discipline  
13 Olsen for the distribution of confidential information to non-qualified recipients.  
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15 Allegation 2: That on May 10, 2017, Olsen failed to provide Ford with information that had been  
16 requested on May 4, 2017.

17 This allegation seems to be related to the prior issue, where Ford alleges that she  
18 requested that Olsen provide her with information on May 4, but Olsen did not do so. However,  
19 the only May 4 correspondence in the record between Ford and Olsen is an email chain called  
20 “guidance” wherein Olsen states, “I’m dropping the ball with my workload . . . can you help me  
21 prioritize my duties. . . I don’t know what else to do, I need your help.”<sup>49</sup> Ford responded to this  
22 email by telling Olsen to prioritize testing; the only question she asks Olsen is, “Why and whose  
23 classes do you need to attend?” There’s no other evidence in the record that supports that Ford  
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25 <sup>49</sup> EX 7.

1 requested information on May 4 that was not provided on May 10. Olsen did send the test  
2 coordinator email to Ford on May 11, 2017 at 6:34 a.m. and was promptly directed to send it to  
3 staff at 6:46 am.<sup>50</sup>

4 The evidence presented at the hearing does not support this allegation.

5 Allegation 3: That Olsen failed to direct test proctors to watch a required video prior to testing  
6 and failed to verify that the proctors had watched the video, as required, prior to testing.

7 Once Olsen was relieved of her test coordinator responsibilities, Hug and District  
8 administrators took over the tests. In that process, Aird determined that not every proctor had  
9 watched a video required by the state and completed an affidavit affirming that they'd watched  
10 it. Olsen was responsible for staff training and for ensuring that every proctor watched the video.

11 Olsen admitted that she did not show the video at her staff training, and that, to save time,  
12 she told people what was in the video and decided to send them the link to watch it on their own  
13 time. She claimed to be confused as to whether the video was required.

14 Olsen's testimony was, "I had a proctor training and was going to show the video, and I  
15 was gathering information from the NV website that I didn't actually have to show it, I could  
16 email it to them. I also showed during the IDP that during the training that we went through step  
17 by step and told them they would get the video. I also told them what was in the video. I was  
18 trying to get people to sign it. Running around like crazy to get the signatures. I said, 'you have  
19 to watch this.' I had every intention that they see it, but I hadn't gotten all the signatures. 'So  
20 overwhelmed. Couldn't keep my head above water.'"

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<sup>50</sup> EX 8.

1 As with the breach of confidentiality, Olsen describes her mindset and believes it is a  
2 defense. Instead, it's an explanation that she was not doing her job duties as assigned and was  
3 creating testing irregularities that put Hug and District into a difficult position with the State  
4 Department of Education. The District demonstrated that there was just cause for discipline  
5 under these circumstances.

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7 Allegation 4: That on May 16, 2017, Olsen discussed her removal as the test coordinator with  
8 two other employees.

9 In the Second LOA, Ford alleges that Olsen emailed Rhonda Clarke and Brad Bodine  
10 with statements concerning her removal as test coordinator. Those emails were not in evidence at  
11 the hearing. It is undisputed that Olsen texted her friend and co-worker Ryley Coker before being  
12 admonished not to discuss the matter with co-workers. Once Olson had been so admonished, she  
13 let Coker know she shouldn't have been discussing the matter with him.

14 It is unclear from the record whether Olsen knew that she was not permitted to discuss  
15 her removal at the time that she communicated with her friend.<sup>51</sup> In any case, the Employer did  
16 not demonstrate that there is just cause to discipline Olsen for this allegation.

17 Allegation 5: That Olsen's statements to two other employees about "being relieved" about being  
18 removed as test coordinator demonstrated "willful neglect or failure to observe and carry out the  
19 requirements of this title."

20 Olsen's description of "being relieved" is an extension of her self-assessment that she  
21 was overwhelmed and needed help, and not itself "willful neglect or failure to observe and carry  
22 out the requirements" of the test coordinator role. She had already been removed from the role  
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26 <sup>51</sup> It's also unclear whether the Employer can direct a public employee not to discuss their own  
personnel matters with a friend. While neither party raised the issue, it is questionable whether any employer can  
restrain employees from discussing their terms and conditions of employment with co-workers.

1 and she was only stating her feelings about the pressure of the position being removed from her.  
2 Since her statements were made after removal, and do not relate in any way to misconduct, this  
3 allegation, even if true, could not be the basis for discipline.

4 Allegation 6: That Olsen returned to her office on May 17, 2017, to retrieve a radio after being  
5 directed not to enter her office because test materials were in that office.

6 This allegation is undisputed. Olsen was directed by email not to use her office. She  
7 entered her office for the purpose of retrieving her radio so that she could perform her other  
8 duties as an AP. She told Aird that she could not remain in the office and left promptly after  
9 getting the radio. This does not constitute “use” of the office and doesn’t warrant discipline.

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12 In the Second LOA, Ford set performance expectations for Olsen, including that she not  
13 be involved in testing for three years, to meet with the new principal of Hug High School. By the  
14 date of the letter, Ford had become an Area Superintendent and was no longer the principal at  
15 Hug High School. Olsen did not have an opportunity to meet these expectations because she was  
16 on paid administrative leave.<sup>52</sup> **In summary, based on the evidence, the Arbitrator concludes**  
17 **that the District had just cause to impose the Second LOA on Olsen because of Allegations**  
18 **1 and 3 relating to test irregularities that occurred because she was testing coordinator.**  
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26 <sup>52</sup> EX 29.



## Discharge Letter

On the same day that Ford sent Olsen the two LOAs (July 19, 2017), Area Superintendent Roger Gonzalez sent Olsen an IDP letter alleging three separate issues.<sup>53</sup> An IDP meeting was held on July 26, 2017. Thereafter, Gonzalez took a leave of absence and Olsen was placed on paid administrative leave. Gonzalez issued a Notice of Recommended Dismissal on June 28, 2018.<sup>54</sup>

Allegation 1: That Olsen filed written false claims against Principal Lauren Ford regarding the incident where Wilson returned marijuana to a student because she had witnessed Ford “do the same thing a while ago.”

In her Staff Complaint, Olsen asserted that Wilson had told her that she had returned drugs to a student because she “saw Ford do the same thing a while ago.” This was a hearsay statement by Wilson which Olsen believed should be investigated by Ford’s superiors. In her view, if Ford had given drugs to a student, it was a serious matter which should be handled at the District level. Olsen did not weigh in on the truth of the statement, merely that the appropriate investigator was Ford’s supervisor.

In Gonzalez’s view, Olsen knew that the reference to “the same thing” meant Ford had not suspended a student, not that Ford had returned a student’s drugs. Ford and Wilson testified about a separate incident where Ford declined to suspend a student after conferring with the school police officer because doing so would endanger the student and an ongoing investigation. However, there was no evidence that Olsen knew about that case, or knew what Wilson was

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<sup>53</sup> DX 7.

<sup>54</sup> DX 8.

1 referring to when she heard “the same thing.” Gonzalez did not say why he believed that Olsen  
2 was willfully lying.

3 Olsen’s misunderstanding was mistaken but made in good faith. There’s no evidence to  
4 support Gonzalez’s conclusion that she was willfully dishonest with the intent to harm Ford.  
5 Rather, she was passing along to the District what would be a serious allegation if true and  
6 expecting a full and fair investigation.  
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8 Even if Olsen was being negligent in making the complaint (she could have asked Wilson  
9 to clarify the comment), taking disciplinary action against someone for making a complaint of  
10 alleged misconduct is retaliatory and has the effect of inhibiting people from coming forward  
11 with other allegations of misconduct. There is genuine uncertainty about what Wilson’s  
12 statement meant. In the third hand account Olsen received, Wilson had found drugs in a student’s  
13 wallet and then returned the drugs to the student. When asked about it, Wilson said that “Lauren  
14 had done the same thing.” It’s not unreasonable to find that statement shocking to hear about  
15 one’s superior and to believe that the District should take steps to investigate the matter.  
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17 The evidence presented by the District did not support the allegation that Olsen made  
18 false allegations or was dishonest. Olsen reported a hearsay statement and expected a fair  
19 investigation, and instead was terminated. This discipline is retaliatory and overly punitive. The  
20 evidence on this allegation does not support discharge.  
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22 Allegation 2: That Olsen brought false claims and allegations against Ford regarding the  
23 supervision timeline and evaluation process.

24 Olsen filed a separate complaint against Ford alleging problems with the way Ford  
25 conducted Olsen’s performance evaluation. There were several specific problems: that Ford  
26 hadn’t followed the proper timeline, that Ford hadn’t given her notice of her second observation,

1 that Ford had removed positive statements from Olsen's performance evaluation and that Olsen  
2 was not permitted to submit a rebuttal statement.

3 It is true that Ford did not follow the evaluation timeline. First, the December 7 school  
4 shooting was disruptive to operations and the District gave Hug extra time to complete certain  
5 paperwork because of that incident. Second, Ford, for reasons that she didn't explain, did not  
6 complete the evaluations of her subordinate staff on the schedule required by the District.  
7 Therefore, Olsen's 120<sup>th</sup> day observation and her evaluation were completed late by Ford.  
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9 After their April 21 evaluation meeting, Ford added Olsen's rebuttal comments into the  
10 narrative of the final performance evaluation. When Mike Paul notified Ford that the "artifact"  
11 should not be in the narrative, Ford removed it, as Olsen alleged, but was required to do so by the  
12 District and not in retaliation against Olsen.  
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14 At the point at which Olsen filed this Staff Complaint, she was very concerned that her  
15 performance evaluation would not be considered on its positive merits because of the testing  
16 irregularities issue. She had been reassigned to Traner and was very concerned that she was  
17 being disciplined for performance issues which she believed Ford had also committed and  
18 wanted to bring that to the District's attention.

19 Olsen's actions in filing this Complaint were "CYA" and self-protective, but they weren't  
20 false. Ford had not followed the timelines and had altered Olsen's evaluation, even if it was at  
21 Mike Paul's direction. Therefore, the facts do not support the allegation that Olsen filed a false  
22 claim against Ford for supervision and performance evaluation issues. The District does not have  
23 just cause to terminate Ms. Olsen on this basis.  
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25 Allegation 3: That Olsen discussed personnel matters with Hug staff members against the  
26 direction of management.

1 As with Allegation 5 in the Second LOA, it's unclear that Olsen was aware that she  
2 couldn't discuss her own personnel matters with people she believed were her friends after the  
3 IDP meeting. It's strains credibility that she would not be able to exercise her own judgment in  
4 sharing details about her own case with friends of her choosing, and the Arbitrator again  
5 questions whether the Employer even has the authority to restrain the speech of a public  
6 employee who wants to discuss the terms and conditions of their employment with their co-  
7 workers. Even if the Employer has the authority, the violation of this rule should not, under these  
8 circumstances, be the basis for discharge, where the Employer held open the case from June  
9 2017 until July 2018. The evidence in the hearing does not demonstrate that the Employer has  
10 just cause to discipline for this allegation.  
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13 **For these reasons, the Arbitrator concludes that the Employer did not meet their**  
14 **burden of proof that the alleged actions constituted misconduct. The District does not have**  
15 **just cause for termination of Trina Olson.**  
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## 17 **II. WHAT IS THE LEGAL STANDARD THAT APPLIES IN THIS CASE?**

18 As stated above, the District contends that this case is governed by NRS 391.822 and  
19 391.824, the non-binding arbitration procedures which govern the dismissal of probationary  
20 employees. The Grievant contends that she should be afforded the binding arbitration process set  
21 forth in the Grievance Procedure in the Negotiated Agreement. The resolution of this question  
22 hinges on whether Olsen was a probationary employee at the time she was removed from her  
23 position as an Assistant Principal.  
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1 While Olsen is a long-time employee of the District, she was a probationary employee in  
2 the position of AP. It is undisputed that she was in a probationary period in the 2016-2017 school  
3 year, when all these issues arose.

4 NRS 391.820(8) states: “A new employee who is employed as an administrator to  
5 provide primarily administrative services at the school level and who does not provide primarily  
6 direct instructional services to pupils, regardless of whether the administrator is licensed as a  
7 teacher or administrator, including, without limitation, a principal and vice principal, or a **post**  
8 **probationary teacher who is employed as an administrator to provide those administrative**  
9 **services shall be deemed to be a probationary employee for the purposes of this section and**  
10 **must serve a 3-year probationary period as an administrator in accordance with the**  
11 **provisions of this section.”** This clearly defines the probationary status of a post-probationary  
12 teacher who is employed as an administrator. This section applied to Olsen, despite her many  
13 years of service.  
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16 Probationary employees are considered to be working in a trial period. “The purpose of a  
17 trial period is to afford an employee the opportunity to demonstrate that he has the ability for the  
18 job in question or can with some familiarization therewith achieve the necessary skills within a  
19 reasonable period of time to perform the job in an acceptable manner.”<sup>55</sup>  
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21 Non-probationary APs are indisputably covered by the Negotiated Agreement, and by the  
22 clear language of the grievance procedure are protected by binding arbitration. By virtue of the  
23 fact that the term “non-probationary” is used repeatedly in that section, the reader of the contract  
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<sup>555</sup> Elkouri & Elkouri, “How Arbitration Works,” 6<sup>th</sup> edition, p. 892, citing *American Welding & Mfg. Co.*, 52 LA 889, 893 (Stouffer 1969).

1 can conclude that “probationary” employees are not covered by binding arbitration. The process  
 2 for removing probationary employees is governed by NRS 391.822 and 391.824.

3 The record is silent about what rights Ms. Olsen may have as a senior member of another  
 4 bargaining unit, such as a certificated teachers unit or a unit that covers Deans of Students. It is  
 5 clear that she was still in her trial period as a probationary AP pursuant to NRS 391.820(8) and is  
 6 therefore subject to the state law governing her removal.  
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8 **III. HAS THE DISTRICT MET THE LEGAL STANDARD THAT APPLIES IN**  
 9 **THIS CASE?**

10 NRS 391.824 defines the procedure for a hearing concerning dismissal of a probationary  
 11 employee. It says in pertinent part:

12 (1) If a timely request for an expedited hearing is made pursuant to NRS  
 13 391.822, the superintendent must not take any further action relating to the  
 14 recommendation to dismiss the probationary employee until the written report from the  
 15 arbitrator is filed with the superintendent and the probationary employee pursuant to  
 subsection 2.

16 The District violated this section of NRS 391.822 when it terminated Olsen on July 5,  
 17 2018 without waiting for the final report from the Arbitrator. While an extensive amount of time  
 18 had passed since the events in question, likely at great financial cost to the District, the delay was  
 19 entirely due to the District’s failure to follow up on the IDP meeting of July 26, 2017 in a timely  
 20 fashion. The statute is clear that the superintendent must not take action until receipt of the  
 21 written report of the arbitrator, and in this case, they acted prematurely by ending Ms. Olsen’s  
 22 employment before a hearing could be conducted.  
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24 The statute also states:

25 (2) An arbitrator shall hold an expedited hearing and file a written report with  
 26 the superintendent and the probationary employee who requested the hearing pursuant to  
 NRS 391.822 in the manner prescribed by the Expedited Labor Arbitration Procedures  
 established by the American Arbitration Association or its successor organization. The

1 only issues the arbitrator may consider are whether the dismissal of the probationary  
2 employee would:

3 (a) violate the legal rights of the probationary employee provided by federal law  
or the laws of this State; or

4 (b) be arbitrary or capricious.

5 (3) At the evidentiary hearing, the superintendent must provide evidence of at  
least one reason to recommend the dismissal of the probationary employee.

6 At the hearing in this matter, the District stated three reasons for the dismissal of Ms.  
7 Olsen. As stated above, the evidence provided by the District did not support the conclusion that  
8 dismissal is warranted. Olsen did not knowingly file false claims against Principal Lauren Ford,  
9 and, if she did discuss her employment action with co-workers, it was not knowingly in violation  
10 of a rule, nor did it warrant dismissal. Because of the retaliatory nature of the recommendation of  
11 dismissal, the Employer's lack of just cause for discharge is arbitrary and capricious.

12 There are two other areas that warrant discussion. First of all, the December 7 shooting  
13 that was witnessed by Ms. Olsen was a significant event in the life of Hug High School, its  
14 community and Ms. Olsen in particular. There was no evidence that the trauma of this event was  
15 addressed. Ms. Olsen must have had great personal courage and a deep reserve of competence to  
16 respond in the way she did. The fact that she later felt like she was overwhelmed, under water  
17 and needed help seems like an obvious and unfortunate consequence of witnessing a knife attack  
18 on students and the subsequent shooting death of the student who initiated the attack.

19 Given that Ms. Olsen had a stellar track record as a teacher and Dean of Students, it was  
20 reasonable to expect that she would excel as an AP. Based on feedback from her peers and  
21 principal, it sounds as though she struggled in the role. While the shooting may not have been the  
22 cause of that, Ms. Olsen's bravery and trauma should have been handled in a more sensitive  
23 manner than her prolonged and painful dismissal suggests.  
24  
25  
26

1 The second thing that warrants discussion springs from that issue. As a probationary  
2 employee who had completed one year but who had a testing irregularity did not need to be  
3 dismissed. NRS 391.750 lays out a number of options which would have addressed the issue in a  
4 less punitive fashion. For example, the District could have returned Olsen to a Dean of Students  
5 position, where she was last successful, or they could have decided to otherwise not reemploy  
6 her as an administrator and offered to return her to the classroom, per 391.820. The decision to  
7 move forward with dismissal seems to have prolonged the cost and pain to both Ms. Olsen and  
8 the District, which is particularly unfortunate, given that dismissal was not warranted.  
9

#### 10 11 **DECISION AND AWARD**

12 For the foregoing reasons, the Arbitrator finds that the grievance is sustained in part and  
13 denied in part. The District has met their burden of showing there was just cause for the first and  
14 third allegations in the Second Letter of Admonition but has failed to show that there was just  
15 cause for the First Letter of Admonition and the Notice of Dismissal.  
16

17 Because the Dismissal should not have been implemented until after receipt of this  
18 written report, the Employer must reinstate Ms. Olsen and make her whole back to July 5, 2018.  
19 Upon receipt of this written report, the superintendent will then follow the provisions of  
20 391.824(6). It is the opinion of the Arbitrator that the District has been arbitrary and capricious in  
21 its decision to dismiss Ms. Olsen and recommend that the superintendent review Ms. Olsen's file  
22 to determine whether she is eligible for placement as an AP or for some other position.  
23

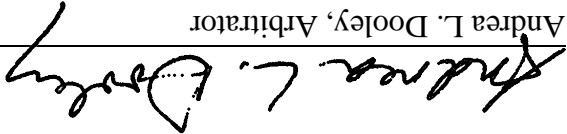
24 Because the allegations concerning testing irregularities were the basis for the LOA, they  
25 can be considered as part of Ms. Olsen's job record but should not be the basis for dismissal, as  
26



DECISION AND AWARD - 39

that would violate principles of double jeopardy which are commonly applied in labor arbitration matters.

Dated: December 13, 2018.

  
Andrea L. Dooley, Arbitrator

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2019-09-30 04:05:56 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7511797 : csulezic

## **Exhibit 5**

## **Exhibit 5**

## **DECLARATION OF TRINA OLSEN**

I, Trina Olsen, declare that the assertions in this Declaration are true and correct, based upon my personal knowledge, and that I am competent to testify to the facts stated below:

1. I am the Plaintiff in the lawsuit to be filed in the Second Judicial District Court entitled Trina Olsen v. Washoe County School District (“WCSD”) and Traci Davis, former Superintendent at WCSD.
2. Since 1992, I have worked in various positions at WCSD including as a certificated teacher and then Dean of Students.
3. I am currently an Assistant Principal at Wooster High School in Reno.
4. For the 2016-2017 school year, I was Assistant Principal at Hug High School, where I reported to and was supervised by Hug High Principal Lauren Ford (“Ford”).
5. In May of 2017, I was informed of allegations that illegal drugs may have been provided to students by Jessica Wilson, Dean of Students at Hug High, and by Ford.
6. I then reported these allegations to WCSD Area Superintendent Roger Gonzalez.
7. However, rather than investigate Wilson and Ford regarding allegations that they gave drugs to students, Gonzalez and other WCSD employees began a campaign of character assassination and retaliation against me, which led to my being fired in early July of 2018.
8. Before I was fired, I requested that the dispute between WCSD and myself be subject to arbitration.
9. Even though I prevailed in the Arbitration against the District, I still believe that I am at risk of being fired for reporting Ford and Wilson.
10. Even though Traci Davis was also fired by the WCSD School Board around July 1, 2018, the same basic School Board and leadership at WCSD is still in place. For example, Lauren Ford was promoted to the position of Area Superintendent at WCSD three weeks after I made my complaint to Roger Gonzalez.

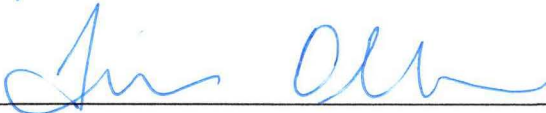
11. I fear that further retaliatory actions may be taken against me by WCSD as a result of my instituting this case because in July of 2018 I was fired after reporting alleged illegal conduct and after I requested arbitration.

12. If I am again dismissed from my job at WCSD, I will suffer the following harm:

- a. I will lose my income that I rely on for the necessities of life;
- b. I will lose my health insurance;
- c. I will suffer further irreparable harm to my professional reputation by being terminated a second time;
- d. I would lose credit toward retirement from PERS so I could not retire at the time and income level that I was promised by the system;
- e. I will not be able to avail myself of the arbitration process again; and
- f. I will suffer further delay in my ability to seek a position as a principal.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 9/30/19 in Reno, Nevada.

By:   
Trina Olsen

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 CV19-01900  
 2019-10-01 04:46:00 PM  
 Jacqueline Bryant  
 Clerk of the Court  
 Transaction # 7514988 : csulezic

Code 1090  
 LUKE A. BUSBY, ESQ  
 Nevada Bar No. 10319  
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 316 California Ave.  
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 775-453-0112  
 luke@lukeandrewbusbyltd.com  
*Attorney for the Plaintiff*

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR THE COUNTY OF WASHOE**

\* \* \*

TRINA OLSEN,

Plaintiff,

Case No.: CV19-01900

vs.

Dept. No.: 1

WASHOE COUNTY SCHOOL  
 DISTRICT, a political subdivision of the  
 State of Nevada; Washoe County School  
 District Superintendent TRACI DAVIS;  
 and DOES 1 through 10 inclusive;

Defendants.

**ARBITRATION EXEMPTION  
 REQUESTED – INJUNCTIVE AND  
 DECLARATORY RELIEF SOUGHT  
 AND PROBABLE JURY AWARD IN  
 EXCESS OF \$50,000.**

**AMENDED VERIFIED COMPLAINT**

COMES NOW, TRINA OLSEN, (“Olsen” or “Plaintiff”), by and through the undersigned counsel, and files the following verified complaint seeking redress for the violation by of Olsen’s Due Process rights under the Fourteenth Amendment to the United States Constitution and for various pendent state law claims against WASHOE COUNTY SCHOOL DISTRICT, a political subdivision of the State of Nevada (“WCSD”); and WCSD Superintendent TRACI DAVIS (“Davis”) (collectively “the Defendants”); and JOHN DOES I through X, inclusive.

### **Arbitration Exemption**

1  
2 1. As set forth more fully hereinbelow, Plaintiff's claims have a probable  
3 jury award in excess of fifty thousand dollars (\$50,000.00); further,  
4 contemporaneous with this motion, the Plaintiff is filing a Motion for Preliminary  
5 Injunction and seeks declaratory relief in this Verified Complaint, and, therefore,  
6 this dispute should be excluded from mandatory court-annexed arbitration  
7 program under the provisions of NAR 3(A).  
8  
9

### **Jurisdiction and Venue**

10  
11 2. The above-captioned Court has subject matter jurisdiction pursuant  
12 to NRS 3.221 and NRS 4.370, as the amount in controversy exceeds fifteen  
13 thousand dollars (\$15,000.00).  
14

15 3. Venue is properly in the above-captioned Court because: (a) the  
16 Plaintiff is located in and the Defendant is a political subdivision of the State of  
17 Nevada located in Washoe County; (b) it has personal jurisdiction over the  
18 Plaintiffs in this action; (c) it has personal jurisdiction over the Defendants; and (d)  
19 Plaintiff was employed by the Defendant WCSD in Washoe County.  
20  
21

### **Parties**

22  
23 4. Ms. Olsen is currently an assistant principal at Wooster High School  
24 in Reno, Nevada, and currently resides, and at all times relevant hereto resided,  
25 in Reno, Nevada.  
26

27 5. WCSD is the school district that serves Washoe County and is a  
28 political subdivision of the State of Nevada.

1           6.     Ms. Davis was employed by WCSD as Superintendent at the times  
2 relevant to this Complaint until her termination from WCSD on July 1, 2019.

3           7.     Ms. Davis was at all times relevant herein acting under color of state  
4 law as described below.

5           8.     Ms. Davis is sued in her individual capacity.

6           9.     Ms. Davis, as Superintendent of WCSD, was the officer with final  
7 policymaking authority over personnel matters within the WCSD during her  
8 tenure at WCSD.  
9  
10

### 11                                   **Allegations of Fact**

12           10.    Olsen has been an employee of WCSD since 1992. Olsen worked in  
13 various position as a certificated teacher and then Dean of Students.

14           11.    For the 2016-2017 school year, Olsen was promoted to the position  
15 of Assistant Principal at Hug High School, where she reported to and were  
16 supervised by Hug High Principal Lauren Ford ("Ford").  
17

18           12.    At Hug High, Olsen was responsible for supervising Multi-Tiered  
19 Systems of Support (MTSS) and Special Education, among her general duties as  
20 Assistant Principal. Olsen also worked on the Hug Credit Attainment Program, a  
21 school-wide effort to help students complete courses and obtain credits toward  
22 graduation, as well as acting as the testing coordinator for Hug High. Olsen was  
23 also responsible, along with other staff members and administration, for school  
24 safety and student discipline at Hug High.  
25  
26  
27  
28

1           13. Ford conducted numerous evaluations, called formal observations, of  
2 Olsen at Hug High, including a 40th Day Observation of Olsen on September 27,  
3 2016, in which Ford deemed Olsen to be "effective." Ford conducted an 80th  
4 Day Observation on November 8, 2016 during a Professional Development  
5 program Olsen had organized, and Ford again rated Olsen "effective," and  
6 commended her efforts while providing recommendations for improvement. Ford  
7 conducted a 120th Day Observation of Olsen on January 31, 2017 and signed off  
8 on it on April 15, 2017. Ford completed Olsen's yearly Performance Evaluation  
9 on or about April 21, 2017, and rated Olsen as overall effective. Thus, before the  
10 events described below, Ford herself indicated that Olsen was effective at doing  
11 her job.  
12

13  
14  
15           14. On or about May 8, 2017, Hug High teacher and department leader  
16 Patrick Rossi told Olsen that another teacher had told him that Dean of Students  
17 at Hug High Jessica Wilson had given drugs back to a student. Patrick Rossi  
18 indicated to Olsen that he learned this information from Hug High teacher  
19 Sabrina Cellucci.  
20

21           15. Olsen was informed that Sabrina Cellucci brought Wilson a wallet  
22 that belonged to a student which contained marijuana. Cellucci brought Wilson  
23 the wallet because Wilson was in charge of discipline of students at Hug High.  
24 Wilson then confronted the student about the wallet and the marijuana and when  
25 the student asked for the wallet, Wilson asked her if she knew what was in the  
26 wallet. Wilson then gave the wallet with the marijuana back to the student.  
27  
28



1           16. On May 8, 2017 Olsen went to Wilson's office to talk to Wilson about  
2 the allegation that she had given marijuana back to a student. Olsen asked Wilson  
3 if she had handed drugs back to a student. Wilson admitted that she had given  
4 the drugs back to the student because she had seen Lauren Ford do the same  
5 thing, which Olsen understood to mean that Wilson had: (1) given marijuana back  
6 to a student, and (2) that Olsen's boss, Ford, had done the same thing in the past.

8           17. Olsen knew that providing illegal drugs such as marijuana to a  
9 student was a criminal offense and a clear violation of WCSD policy, and as such  
10 she took the allegations that Wilson and Ford had done this very seriously.

12           18. On May 25, 2017, Olsen notified Roger Gonzalez, who was at that  
13 time WCSD Area Superintendent, that she wanted to report an incident involving  
14 marijuana on the Hug High campus. Despite Olsen's pleas to a meeting to  
15 discuss the matter, Gonzalez refused to meet with Olsen regarding the matter,  
16 and instead provided Olsen with the formal staff complaint form.

18           19. On June 4, 2017, Olsen filed the staff complaint form against Lauren  
19 Ford by sending the form to Roger Gonzalez. Olsen's complaint stated that:

21           Patrick Rossi reported to me that Jessica Wilson (dean of students)  
22 had given a student back marijuana after it was turned in by a  
23 teacher. I went to Jessica Wilson and asked her if it was true, and  
24 she replied, 'yes, But I only did it because I saw Lauren (Ford) do it  
25 not too long ago.

26           20. However, rather than investigate Wilson and Ford regarding  
27 allegations that they gave drugs to students, Gonzalez and other WCSD  
28 employees began a campaign of character assassination and retaliation against

1 Olsen. In other words, despite having an excellent track record as a WCSD  
2 employee for a number of years, after discovering allegations that Wilson and  
3 Ford had given marijuana to a student and investigating and reporting the matter  
4 to Roger Gonzalez, Olsen has been subject to a barrage of false accusations and  
5 allegations of misconduct by WCSD officials.  
6

7 21. On June 28, 2018, Roger Gonzalez authored a letter to Ms. Olsen,  
8 copied to Ms. Davis and other WCSD employees, which recommended that  
9 Olsen be dismissed from WCSD. Among the allegations against Olsen detailed by  
10 Mr. Gonzalez in the letter, were that Olsen had made false accusations against  
11 Ford related to the marijuana incident described above.  
12

13 22. On July 6, 2018, Olsen filed a request to arbitrate the matter of the  
14 recommendation of her firing by Roger Gonzalez and Traci Davis according to  
15 the provisions of NRS 391.824.  
16

17 23. On July 23, 2018 Olsen was informed by WCSD employee Selene  
18 Lewis that Olsen was no longer being paid by WCSD because her status was,  
19 "recommended for dismissal."  
20

21 24. On July 27, 2018, Olsen was notified by Traci Davis by mail that she  
22 was discharged effective July 5, 2018, despite the fact that Davis, by the very  
23 terms of the July 27, 2018 letter, was aware that Olsen had elected to arbitrate  
24 the matter and that arbitration proceedings were ongoing.  
25

26 25. Ms. Olsen's unlawful termination was the subject of arbitration  
27 proceedings conducted before Arbitrator Andrea L. Dooley in Case No. LA-627-  
28

1 2018 on November 1, 2, and 28 of 2018, conducted in Reno, Nevada. Ms.

2 Dooley issued a Decision and Award on the latter dated December 13, 2018.

3 Among the relevant findings of fact and conclusions of law in the Decision and

4 Award are:

5  
6 a. WCSD violated NRS 391.822 when Traci Davis terminated Ms. Olsen  
7 on July 5, 2018 without waiting for the final report from the Arbitrator;

8 b. WCSD did not meet their burden of proof that the alleged actions of  
9 Ms. Olsen constituted misconduct, as alleged;

10 c. WCSD took disciplinary measures against Olsen that were  
11 retaliatory; and

12 d. WCSD's dismissal of Ms. Olsen was arbitrary and capricious.

13  
14 26. The arbitrator's Decision and Award recommended that WCSD,  
15 "...must reinstate Ms. Olsen and make her whole back to July 5, 2018, the  
16 superintendent will then follow the provisions of 391.824(6)." Exhibit 4 at 38.

17  
18 27. Although WCSD reinstated Olsen and provided back pay and  
19 benefits from July 5, 2018, it has not made Ms. Olsen whole as required by the  
20 Arbitrator's Decision and Award. To date, almost nine months after the Decisions  
21 and Award from Ms. Dooley, WCSD has still not complied with the provisions of  
22 NRS 391.824(6) by sending the required letter indicating that dismissal of Ms.  
23 Olsen will not be recommended to the board and that no further action will be  
24 taken against Ms. Olsen. Contemporaneous with this Complaint, Olsen is filing a  
25 Motion for Preliminary Injunction requesting that the Court prohibit WCSD from  
26  
27  
28

1 taking any adverse action against Olsen without prior consent of this Court until this  
2 case is finally resolved.

3 28. Ms. Olsen's firing at the hands of Ms. Davis occurred in blatant  
4 violation of NRS 391.824(1): "If a timely request for an expedited hearing is made  
5 pursuant to NRS 391.822, the superintendent must not take any further action  
6 relating to the recommendation to dismiss the probationary employee until the  
7 written report from the arbitrator is filed with the superintendent and the  
8 probationary employee..."  
9  
10

11 29. By the above-described malicious acts, and as a direct result,  
12 Defendant caused Olsen to lose the benefit of gainful employment at her chosen  
13 occupation for a period of six-months, and Olsen suffered damages in excess of  
14 \$15,000.  
15

16 30. The Plaintiff has suffered damages as a result of the disregard for  
17 her Constitutional rights by the Defendants, including but not limited to emotional  
18 distress, humiliation, personal indignity as well as loss of reputation or status  
19 caused by Olsen's unlawful discharge from employment and violation of her  
20 Constitutional rights described herein.  
21  
22

23 **CLAIMS FOR RELIEF**

24 **42 U.S.C. 1983 - VIOLATION OF DUE PROCESS**

25 **(PROTECTED PROPERTY INTEREST)**

26 **(Against Defendant Davis)**  
27  
28

1           31. Plaintiff repeats and realleges the allegations set forth in the  
2 foregoing Paragraphs as though fully set forth herein.

3           32. By their conduct, as described herein, Defendant is liable to the  
4 Plaintiff under 42 U.S.C. § 1983 for the violation, under color of state law, of the  
5 constitutional right to be free from any deprivation of property without due  
6 process of law under the Fifth and Fourteenth Amendments to the United States  
7 Constitution.  
8

9  
10          33. Davis violated numerous provisions of Nevada Revised Statutes  
11 (“NRS”) Chapter 391 and the applicable Collective Bargaining Agreement  
12 governing the rights of employees in the State of Nevada, including the Plaintiff,  
13 which rules secure certain benefits that support a claim of entitlement to those  
14 benefits by the Plaintiff, including but not limited to the prohibition of dismissal of  
15 an employee if such dismissal violates the legal rights of the probationary  
16 employee provided by federal law or Nevada law or is arbitrary or capricious as  
17 contained in NRS 391.824(2) and (3).  
18

19  
20          34. The provisions of Nevada Revised Statutes (“NRS”) Chapter 391 and  
21 the applicable Collective Bargaining Agreement create a property interest that is  
22 protected by the Due Process Clause of the 5th and 14th Amendments to the  
23 Constitution, the violation of which by the Defendants caused damages to the  
24 Plaintiff.  
25  
26  
27  
28

1           35. The acts of the Defendants described above were dishonest,  
2 intentional, wanton, malicious, and oppressive, thus entitling Plaintiff to an award  
3 of punitive damages. *Smith v. Wade*, 461 U.S. 30 (1983).

4           36. In addition to the relief requested above, the Plaintiff requests relief  
5 as described in the prayer for relief below.  
6

7                           **42 USC 1983 - MONELL CLAIM**

8                                   **(Against WCSD)**  
9

10           37. Plaintiff repeats and realleges the allegations set forth in the  
11 foregoing Paragraphs as though fully set forth herein.

12           38. At all relevant times herein, Defendant WCSD, developed,  
13 implemented, enforced, encouraged and sanctioned de facto policies, practices,  
14 and/or customs exhibiting deliberate indifference to the Plaintiff's Due Process  
15 rights which caused the violation of such rights by Ms. Davis as described herein.  
16

17           39. All actions described herein by Davis are a policy or custom of  
18 WCSD. (*See Jett v. Dallas Independent School District*, 491 U.S. 701, 737  
19 (1989), a policy or custom becomes official when it results from the decision or  
20 acquiescence of the municipal officer or body with final policymaking authority  
21 over the subject matter of the offending policy.) Davis, as superintendent of  
22 WCSD, was the officer with final policymaking authority over personnel matters  
23 within the WCSD, including over the decision to fire Olsen.  
24

25           40. Defendants' unlawful actions were done willfully, knowingly and with  
26 the specific intent to deprive the Plaintiff of her constitutional rights under the  
27  
28

1 Fifth and Fourteenth Amendments to the U.S. Constitution without due process of  
2 law.

3 41. The constitutional abuses and violations by WCSD through the  
4 actions of Ms. Davis were and are directly and proximately caused by policies,  
5 practices and/or customs developed, implemented, enforced, encouraged and  
6 sanctioned by WCSD, including its practice and policy of unlawfully terminating  
7 the employment of WCSD employees who report allegations of unlawful activity  
8 of other WCSD employees.  
9

10  
11 42. Upon information and belief, Defendant WCSD has developed,  
12 implemented, enforced, encouraged and sanctioned a de facto policy, practice,  
13 and/or custom of unlawfully terminating the employment of WCSD employees  
14 who report allegations of unlawful activity of other WCSD employees.  
15

16 43. Defendants' unlawful actions were done willfully, knowingly and with  
17 the specific intent to deprive Plaintiff of her constitutional rights under the Fifth  
18 and Fourteenth Amendments to the U.S. Constitution. The acts of the Defendants  
19 described above were dishonest, intentional, wanton, malicious, and oppressive,  
20 thus entitling Plaintiff to an award of punitive damages. *Smith v. Wade*, 461 U.S.  
21 30 (1983).  
22

23  
24 44. Defendants have acted with deliberate indifference to the  
25 constitutional rights of the Plaintiff. As a direct and proximate result of the acts as  
26 stated herein by each of the Defendants the Plaintiff's constitutional rights have  
27  
28

1 been violated which has caused her to suffer mental and emotional injury and  
2 pain, mental anguish, suffering, humiliation, and embarrassment.

3 **VIOLATION OF DUE PROCESS – NEVADA CONSTITUTION**

4 **(Against All Defendants)**

5  
6 45. Plaintiff repeats and realleges the allegations set forth in the  
7 foregoing Paragraphs as though fully set forth herein.

8 46. Article 1 Section 8(5) of the Nevada Constitution provides that no  
9 person shall be deprived of life, liberty, or property without due process of law.  
10 Due process forbids action which is fundamentally unfair and shocking to the  
11 universal sense of justice. *Summers v. Warden of Nev. State Prison*, 84 Nev.  
12 326, 329, 440 P.2d 388, 390 (1968).  
13  
14

15 47. Davis violated numerous provisions of Nevada Revised Statutes  
16 (“NRS”) Chapter 391 and the applicable Collective Bargaining Agreement  
17 governing the rights of employees in the State of Nevada, including the Plaintiff,  
18 which rules secure certain benefits that support a claim of entitlement to those  
19 benefits by the Plaintiff, including but not limited to the prohibition of dismissal of  
20 an employee if such dismissal violates the legal rights of the probationary  
21 employee provided by federal law or Nevada law or is arbitrary or capricious as  
22 contained in NRS 391.824(2) and (3).  
23  
24

25 48. The provisions of Nevada Revised Statutes (“NRS”) Chapter 391 and  
26 the applicable Collective Bargaining Agreement create a property interest that is  
27  
28



1 protected by the Due Process Clause of the Nevada Constitution, the violation of  
2 which caused damages to the Plaintiff.

3 **TORTIOUS DISCHARGE IN VIOLATION OF PUBLIC POLICY**

4 **(Against All Defendants)**

5  
6 49. Plaintiff repeats and realleges the allegations set forth in the  
7 foregoing Paragraphs as though fully set forth herein.

8 50. Plaintiff, acting in good faith, reported the unlawful activity of her  
9 fellow employees, not to her immediate supervisor Lauren Ford, but to WCSD  
10 Area Superintendent and public official Dr. Roger Gonzalez.

11  
12 51. WCSD superintendent Traci Davis fired the Plaintiff, despite knowing  
13 that the Plaintiff has sought arbitration under the provisions of NRS 391.822.

14  
15 52. WCSD is vicariously liable for damages resulting from their agents,  
16 servants, partners and/or employees, including but not limited to Defendant Traci  
17 Davis.

18  
19 53. The Defendant's decision to fire the Plaintiff was proximately caused  
20 by the Plaintiff's lawful actions and was in derogation of the public policy of the  
21 State of Nevada, i.e. the reporting of illegal activities to the appropriate  
22 authorities. *Allum v. Valley Bank of Nevada*, 114 Nev. 1313, 1316, 970 P.2d  
23 1062, 1064 (1998) and *Buchanan v. Watkins & Letofsky, LLP.*, 2019 WL 3848785,  
24 at \*6 (D. Nev. Aug. 15, 2019)  
25

26  
27 54. As a direct and proximate result of Defendant's tortious constructive  
28 discharge Plaintiff suffered damages.

1 WHEREFORE, the Plaintiff requests that this Court:

2 a. Enter a declaratory judgment pursuant to NRS 30.030 that the actions  
3 complained of herein are unlawful and violate the United States Constitution and  
4 Nevada law.

5  
6 b. Order Defendant to pay the compensation denied or lost to Plaintiff to  
7 date by reason of Defendant's unlawful actions, in amounts to be proven at trial;

8 c. Order Defendant to pay compensatory damages for the Plaintiff's lost  
9 property and emotional pain and suffering, in an amount to be proven at trial;

10 d. Order Defendant to pay exemplary and punitive damages *Smith v.*  
11 *Wade*, 461 U.S. 30 (1983), and/or NRS 42.005;

12 e. Order Defendant to pay attorneys' fees and costs of the action pursuant  
13 to 42 U.S.C. 1988;

14 f. Order Defendant to pay interest at the legal rate on such damages as  
15 appropriate; and

16 g. Grant any further relief that the Court deems just and proper.

17  
18  
19  
20 **NRS 239B.030(4) AFFIRMATION**

21 Pursuant to NRS 239B.030 as well as Rule 10 of the Washoe District Court  
22 Rules, the undersigned hereby affirms that this document does not contain the  
23 social security number of any person.


24  
25 ///

26 ///

27 ///

1 (signature on following page)

2 **DATED** this Tuesday, October 1, 2019:

3  
4 By:   
5 LUKE BUSBY, ESQ.  
6 NEVADA STATE BAR NO. 10319  
7 316 CALIFORNIA AVE.  
8 RENO, NV 89509  
9 775-453-0112  
10 LUKE@LUKEANDREWBUSBYLTD.COM  
11 *ATTORNEY FOR PLAINTIFF*  
12  
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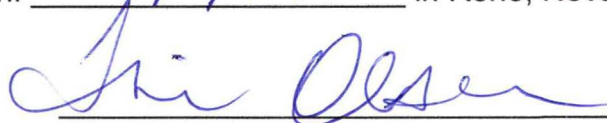
**VERIFICATION**

I, Trina Olsen, declare that the assertions in this Declaration are true and correct, based upon my personal knowledge, and that I am competent to testify to the facts stated below:

That I am the Plaintiff in the forgoing action. That I have read the foregoing AMENDED VERIFIED COMPLAINT and knows the contents thereof. That Allegations of Fact in the AMENDED VERIFIED COMPLAINT are true and correct to the best of my knowledge, information and belief, and as to those matters I believes them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 10/1/19 in Reno, Nevada.

  
\_\_\_\_\_  
Trina Olsen

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that on Tuesday, October 1, 2019, I caused service to be completed by:

\_\_\_\_\_ personally delivering;

  X   delivery via Reno/Carson Messenger Service (**For Personal Service on the Defendants**);

\_\_\_\_\_ sending via Federal Express (or other overnight delivery service);

  X   depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,

\_\_\_\_\_ delivery via electronic means (fax, eflex, NEF, etc.)

a true and correct copy of the foregoing pleading addressed to:

To: Washoe County School District  
Office of General Counsel  
Christopher B. Reich, Esq.  
P.O. Box 30425  
Reno, NV 89520-3425  
[creich@washoeschools.net](mailto:creich@washoeschools.net)

Traci Davis  
c/o William E. Peterson  
SNELL AND WILMER  
50 W. Liberty St. Suite 50  
Reno, Nevada 89501  
[wpeterson@swlaw.com](mailto:wpeterson@swlaw.com)

By: Tim A. Davis

ORIGINAL

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

TRINA OLSEN

Plaintiff

Case. No. 19-01900

, vs.

Dept. No. 8

WASHOE CNTY SCHOOL DIST. et al.

Defendant.

SUMMONS

**TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 CALENDAR DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.**

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action.

42 U.S.C. 1983 Claims and Tortious Discharge Claim

1. If you intend to defend this lawsuit, you must do the following within 20 calendar days after service of this summons, exclusive of the day of service:
  - a. File with the Clerk of the Court, whose address is shown below, **a formal written answer** to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
  - b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.
2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 15<sup>th</sup> day of October, 2019.

Issued on behalf of Plaintiff(s):

Name: Luke Busby, Esq.

Address: 316 California Ave.  
Reno, NV 89509

Phone Number: 775-453-0112

JACQUELINE BRYANT  
CLERK OF THE COURT

By: *Angela*  
Deputy Clerk

Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501